

**PUBLIC MATTER FILED**

JAN 21 2005

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

In the Matter of)

Case No. 04-N-12849-RMT

ROBERT KEITH LONG,)

DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT

Member No. 103344,)

A Member of the State Bar.)

I. INTRODUCTION

In this disciplinary matter which proceeded by default, Joy Chantarasompoth appeared for the Office of the Chief Trial Counsel of the State Bar of California (State Bar). Respondent, Robert Keith Long, did not appear in person or by counsel.

Respondent is charged with failing to obey an order of the California Supreme Court requiring him to comply with rule 955 of the California Rules of Court.¹ After considering the evidence and the law, the court finds by clear and convincing evidence that Respondent is culpable of violating section 6103 of the Business and Professions Code.²

Accordingly, the court recommends that Respondent be disbarred.

II. PROCEDURAL HISTORY

On August 16, 2004, the State Bar filed a Notice of Disciplinary Charges (NDC) in case number 04-N-12849. On that same date the State Bar properly served the NDC on Respondent at

¹Unless otherwise noted, all further references to "rule 955" are to rule 955 of the California Rules of Court.

²Unless otherwise noted, all further references to "section" refer to the Business and Professions Code.

1 his official membership records address, by certified mail, return receipt requested, as provided in
2 Business and Professions Code section 6002.1 (c). The U.S. Postal Service returned the NDC
3 bearing the stamp "Box Closed, Unable to Forward, Return to Sender."

4 On August 19, 2004, Respondent was properly served at his official membership records
5 address with a notice advising him, among other things, that an initial status conference would be
6 held on September 30, 2004. Respondent did not appear at the September 30, 2004, status
7 conference.

8 Respondent did not file a responsive pleading to the NDC. On October 14, 2004, the State
9 Bar filed and properly served a motion for entry of default on Respondent at his official membership
10 records address. The motion advised Respondent that minimum discipline of disbarment would be
11 sought if he was found culpable. Respondent did not respond to the motion.

12 On November 5, 2004, the court entered Respondent's default and enrolled him inactive
13 effective three days after service of the order. The order was served on Respondent at his
14 membership records address.

15 On November 9, 2004, the Court took this matter under submission for decision.

16 On January 9, 2005, the State Bar filed a request for waiver of default hearing and a brief on
17 culpability and discipline. The State Bar included certified copies of Respondent's prior record of
18 discipline and recommended that Respondent be disbarred from the practice of law in California.

19 The Court hereby vacates its prior submission date and reopens the record to allow the filing
20 of the State Bar's brief on culpability and discipline with attached exhibit. The Court also orders this
21 matter submitted as of January 9, 2005.

22 **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 Unless ordered by the court based on contrary evidence, the factual allegations set forth in
24 the NDC are deemed admitted upon entry of default and no further proof is required to establish the
25 truth of such facts. (Bus. & Prof. Code section 6088; Rules Proc. of State Bar, rule 200(d)(1)(A).)
26 The court's factual findings are based on the allegations contained in the NDC.

27 **Facts**

28 Respondent was admitted to the practice of law in California on June 10, 1982, and has been

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

2 On March 12, 2004, the California Supreme Court filed a final disciplinary order in *In re*
3 *Robert Keith Long on Discipline*, Supreme Court Case No. S121460 (State Bar Court Case Nos. 02-
4 O-11509, 02-O-11922, 02-O-14254 (Cons.)). In its order the Supreme Court actually suspended
5 Respondent from the practice of law for one year and until he provided proof of required restitution.

6 The Supreme Court also ordered Respondent to comply with subdivisions (a) and (c) of rule
7 955 of the California Rules of Court within 30 and 40 days, respectively, after the effective date of
8 the Supreme Court's order. The order became effective on April 11, 2004.

9 Upon filing of the March 12, 2004, order, in accordance with rule 24(a) of the California
10 Rules of Court, the Office of the Clerk of the Supreme Court of California served Respondent with
11 a copy of the Supreme Court's order imposing discipline and directing Respondent's compliance
12 with rule 955. (See Evid. Code, section 664.)

13 On March 30, 2004, the Office of Probation of the State Bar sent to Respondent, among other
14 things, a letter reminding him of his obligation to comply with rule 955 along with a copy of the
15 Supreme Court order by first-class mail, postage prepaid, to Respondent's official membership
16 records address. The U.S. Postal Service did not return the mailing as undeliverable or for any other
17 reason.

18 Respondent was obligated to comply with subdivision (a) of rule 955 by May 11, 2004, and
19 to comply with subdivision (c) of rule 955 by May 21, 2004. To date, Respondent has not complied
20 with rule 955 and has offered no explanation to this court for his non-compliance.

21 Legal Conclusions

22 Section 6103 (Failure to Obey Court Order)

23 Section 6103 prohibits an attorney from wilfully disobeying or violating an order of the court
24 requiring him to do or forbear an act connected with or in the course of his profession, which he
25 ought in good faith to do or forbear.

26 Whether Respondent is aware of the requirements of rule 955 or of his obligation to comply
27 with those requirements is immaterial. "Wilfulness" in the context of rule 955 does not require
28 actual knowledge of the provision which is violated. The Supreme Court has disbarred attorneys

1 whose failure to keep their official addresses current prevented them from learning that they had
2 been ordered to comply with rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

3 Thus, the State Bar has established by clear and convincing evidence that Respondent
4 wilfully failed to comply with rule 955, as ordered by the Supreme Court in its March 12, 2004,
5 order. Respondent's failure to comply with rule 955 constitutes a violation of section 6103, which
6 provides for disbarment or suspension for attorneys who wilfully disobey court orders.

7 **IV. LEVEL OF DISCIPLINE**

8 **A. Factors in Mitigation**

9 There are no factors in mitigation presented by the record in this proceeding. (Standard
10 1.2(e), Rules of Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct
11 (Standards).)

12 **B. Factors in Aggravation**

13 1. Respondent's prior record of discipline is an aggravating circumstance. (Standard
14 1.2(b)(i).)

15 In Supreme Court case number S121460 (State Bar Court case numbers 02-O-11509, 02-O-
16 11922, 02-O-14254 (Cons.)), effective April 11, 2004, Respondent was suspended for two years,
17 stayed, and was actually suspended for one year and until he made specified restitution and until he
18 filed a motion to be relieved of actual suspension. Respondent's matter proceeded by default and
19 Respondent was found culpable in three client matters of failing to perform competently, failing to
20 communicate, failing to maintain client funds in trust, failing to notify of receipt of client funds,
21 failing to cooperate with the State Bar, failing to maintain a current address, and committing acts
22 involving moral turpitude.

23 2. Respondent demonstrated indifference toward rectification of or atonement for the
24 consequences of his misconduct by failing to comply with rule 955 even after the NDC in this
25 proceeding was filed. (Standard 1.2(b)(v).)

26 3. Respondent's failure to participate in this disciplinary matter prior to the entry of his
27 default is a serious aggravating factor. (Standard 1.2(b)(vi); *Conroy v. State Bar* (1991) 53 Cal.3d
28 495, 507.)

1 **Discussion**

2 Respondent's wilful failure to comply with rule 955 is extremely serious misconduct for
3 which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990)
4 50 Cal.3d 116, 131.) Such failure undermines the rule's prophylactic function of ensuring that all
5 concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar*
6 (1988) 45 Cal.3d 1181, 1187.)

7 Respondent has demonstrated an unwillingness to comply with the professional obligations
8 and rules of court imposed on California attorneys. By failing to comply with rule 955 and failing
9 to participate in this proceeding, Respondent also exhibits a disregard for both the Supreme Court's
10 and the State Bar Court's efforts to fulfill their respective responsibilities to oversee the practice of
11 law in the State of California.

12 The court is unaware of any facts or circumstances justifying a departure from the usual
13 sanction of disbarment for Respondent's wilful violation of rule 955 and his concomitant violation
14 of section 6103. Respondent's disbarment is necessary to protect the public, the courts and the legal
15 community, to maintain high professional standards and to preserve public confidence in the legal
16 profession. It would undermine the integrity of the disciplinary system and damage public
17 confidence in the legal profession if Respondent were not disbarred for his unexplained wilful
18 disobedience of the Supreme Court order.

19 **V. DISCIPLINE RECOMMENDATION**

20 Accordingly, it is hereby recommended that Respondent ROBERT KEITH LONG be
21 disbarred from the practice of law in the State of California and that his name be stricken from the
22 rolls of attorneys in this State.

23 It is also recommended that the Supreme Court order Respondent to comply with rule 955,
24 paragraphs (a) and (c), of the California Rules of Court, within 30 and 40 days, respectively, of the
25 effective date of its order imposing discipline in this matter.

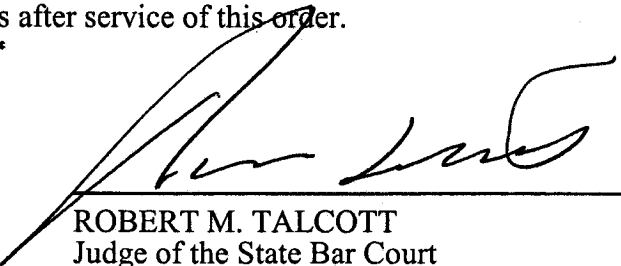
26 **VI. COSTS**

27 The court recommends that costs be awarded to the State Bar pursuant to section 6086.10 and
28 that those costs be payable in accordance with section 6140.7.

1 **VII. ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

2 It is ordered that Respondent be transferred to involuntary inactive enrollment status pursuant
3 to section 6007(c)(4) and rule 220(c), Rules of Procedure of the State Bar of California. The inactive
4 enrollment shall become effective three days after service of this order.

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7 Dated: January 20, 2005

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ROBERT M. TALCOTT
Judge of the State Bar Court

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 January 21, 2005, I deposited a true copy of the following document(s):

**DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT,
filed January 21, 2005**

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

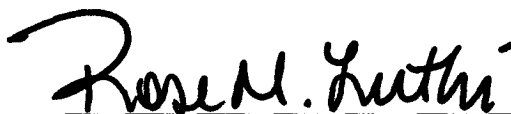
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ROBERT KEITH LONG
P O BOX 11973
COSTA MESA CA 92627**

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

JOY CHANTARASOMPOTH, A/L, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 21, 2005.



Rose M. Luthi
Case Administrator
State Bar Court