

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. 05-N-04099-RAH
)	
RUDOLF CORONA, JR.,)	
)	
Member No. 60868,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
<u>A Member of the State Bar.</u>)	ENROLLMENT

I. Introduction

In this default matter, respondent **RULDOLPH CORONA, JR.,** is found culpable, by clear and convincing evidence, of failing to comply with rule 955 of the California Rules of Court,¹ as ordered by the Review Department of the State Bar Court on April 21, 2005, in case No. 04-C-15534.

The court recommends that respondent be disbarred from the practice of law.

II. Pertinent Procedural History

This proceeding was initiated by the Office of the Chief Trial Counsel of the State Bar (State Bar). The Notice of Disciplinary Charges (NDC) was properly served on respondent on October 13, 2005, at his official membership records address and filed on that same date. The NDC was returned by the U.S. Postal Service bearing the stamp, "Forward time exp rtn to send." A label also listed an alternate address of 4027 Marion Way, Long Beach, CA 90807-3113 (Marion Way address).

On November 7, 2005, the State Bar sent a courtesy copy of the NDC to the Marion Way

¹All references to rule 955 are to rule 955 of the California Rules of Court.

address, and to 1621 Ximeno Ave., Apt. 106, Long Beach, CA 90804-2131 (Ximeno Ave. address), another alternate address located for respondent. The NDC was not returned by the U.S. Postal Service from either of the alternate addresses.

On November 7, 2005, the State Bar attempted to contact respondent at an e-mail address listed with his State Bar official membership records, but received notification that the e-mail could not be delivered to that address. On that same date the State Bar checked the 411.com website for the area which includes respondent's official membership records address and requested all telephone listings for respondent. The State Bar received a listing for "R. Corona" in the San Diego area. On November 15, 2005, when the State Bar attempted to reach the respondent at the phone number which it had received from the 411.com website, there was a voice mail message of an unidentified man. The State Bar left a message, but did not receive any call from respondent.

The State Bar also checked *Parker's Directory* for 2005. *Parker's* had no address or telephone number for the respondent of which the State Bar was not already aware.

As of November 15, 2005, the date of the filing of the motion for entry of default, respondent had failed to file a response to the NDC. (Rules Proc. of State Bar, rule 103.)

On motion of the State Bar, respondent's default was entered on December 2, 2005. The order of entry of default was properly mailed to respondent's official membership records address. A courtesy copy was also sent to the Marion Way address and to the Ximeno Avenue address. Respondent was enrolled as an inactive member under Business and Professions Code section 6007(e)² on December 5, 2005.

Respondent did not participate in the disciplinary proceedings. The court took this matter under submission on December 21, 2005, following the filing of the State Bar's brief on culpability and discipline.

²All references to sections are to the Business and Professions Code, unless otherwise indicated.

III. Findings of Fact and Conclusions of Law

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule 200(d)(1)(A).)

A. Jurisdiction

Respondent was admitted to the practice of law in California on December 18, 1974, and has been a member of the State Bar since that time.

B. Violation of California Rules of Court, Rule 955

Respondent was convicted of violating Health and Safety Code section 11377(a), a felony. Thus, on April 21, 2005, the Review Department of the State Bar Court filed an order in case No. 04-C-15534, suspending respondent from the practice of law pending final disposition in that proceeding. The Review Department also ordered respondent to comply with rule 955, subdivisions (a) and (c), within 30 and 40 days respectively, after the effective date of respondent's suspension in that matter.³ The order became effective May 25, 2005, and was duly served on respondent.

Rule 955(c) mandates that respondent "file with the Clerk of the State Bar Court an affidavit showing that he. . . has fully complied with those provisions of the order entered pursuant to this rule."

On April 21, 2005, the Clerk of the State Bar Court served upon respondent a copy of the Review Department's order directing respondent to comply with rule 955.

³The NDC filed in this proceeding states that the Review Department's order in case No. 04-C-15534 was filed and served on respondent on April 1, 2005. The NDC also states that the order required respondent to comply with rule 955, subdivisions (a) and (c) by July 4, 2005. However, Exhibit 1, attached to the NDC, shows that the correct file date of the Review Court's order is April 21, 2005. Pursuant to the order, respondent was required to comply with rule 955, subdivision (a) within 30 days after the effective date of his suspension, which would have been June 24, 2005, not July 4, 2005. Moreover, since July 4, 2005, was a legal holiday, respondent was not required to comply with rule 955, subdivision (c) until July 5, 2005.

Respondent was to have filed the rule 955 affidavit by July 5, 2005, but as of the filing of the NDC on October 13, 2005, he had not done so, and has offered no explanation of his noncompliance. Whether respondent is aware of the requirements of rule 955 or of his obligation to comply with those requirements is immaterial. “Wilfulness” in the context of rule 955 does not require actual knowledge of the provision which is violated. The Supreme Court has disbarred attorneys whose failure to keep their official address current prevented them from learning that they had been ordered to comply with rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

Therefore, the State Bar has established by clear and convincing evidence that respondent wilfully failed to comply with rule 955, as ordered by the Review Department of the State Bar Court.⁴

C. Violation of Business and Professions Code Section 6103

Accordingly, respondent’s failure to comply with rule 955 constitutes a violation of section 6103, which requires attorneys to obey court orders and provides that the wilful disobedience or violation of such orders constitutes cause for disbarment or suspension.

IV. Mitigating and Aggravating Circumstances

A. Mitigation

No mitigating evidence was submitted into evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)⁵ However, respondent had no prior disciplinary record in 31 years of practice at the time of the misconduct in 2005. “Absence of a prior disciplinary record is an important mitigating circumstance when an attorney has practiced for a significant period of time.” (*In re Young* (1989) 49 Cal.3d 257, 269.)

⁴Specifically, rule 955(d) provides that a suspended attorney’s wilful failure to comply with rule 955 constitutes cause for disbarment or suspension and for revocation of any pending probation.

⁵All further references to standards are to this source.

B. Aggravation

There is one aggravating factor. (Std. 1.2(b).)

Respondent's failure to participate in this disciplinary matter prior to the entry of his default is a serious aggravating factor. (Std. 1.2(b)(vi.))

In its brief on culpability and discipline, the State Bar noted that there is a disciplinary matter, *In the Matter of Rudolf Corona, Jr.*, case No. 04-C-15534-RAH, involving respondent, which is currently pending before this court.⁶ The State Bar contended that the pending matter is an aggravating factor. But, the fact that a disciplinary matter is pending before the court does not constitute a prior record of discipline, and thus is not an aggravating factor. (See, Rules Proc. of State Bar, rule 216, Prior Record of Discipline.)

V. Discussion

The purpose of disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; standard 1.3.)

Respondent's misconduct involved a violation of his obligations under rule 955 of the California Rules of Court and section 6103. The standards applicable to this proceeding are standards 2.6, and 2.10. They provide a broad range of sanctions ranging from reproof to disbarment, depending upon the gravity of the offenses and the harm to the client.

Standard 2.6 provides that culpability of a member of a violation of section 6103 must result in disbarment or suspension. Respondent's failure to obey the order of the Review Department of the State Bar Court to comply with rule 955 resulted in a finding of culpability under section 6103. Although the standards are guidelines and are not binding, they are entitled to great weight. (*In re Silvertown* (2005) 36 Cal.4th 81, 92.)

⁶In the discussion regarding aggravation in its brief on culpability and discipline, the State Bar states that there are currently two separate disciplinary proceedings involving respondent before this court, but then cites only to one matter, case No. 04-C-15534-RAH.

The State Bar urges disbarment citing, among other cases, *Powers v. State Bar, supra*, 44 Cal.3d 337 and *Lydon v. State Bar* (1988) 45 Cal.3d 1181. The court agrees with the recommendation of the State Bar.

Respondent's wilful failure to comply with rule 955(c) is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar, supra*, 45 Cal.3d 1181, 1187.) Respondent has demonstrated an unwillingness to comply with the professional obligations and rules of court imposed on California attorneys although he has been given the opportunity to do so.

The court is unaware of any facts or circumstances that would justify a departure from the usual sanction of disbarment for respondent's wilful violation of rule 955 and his resulting violation of section 6103. One of the State Bar Court's obligations is to ensure that its disciplinary recommendations to the Supreme Court are fair and consistent. (*In re Young* (1989) 49 Cal.3d 257, 268.)

Additionally, by defaulting in this matter, respondent has failed to participate in this disciplinary proceeding. Such misconduct further demonstrates respondent's inability to conform to professional norms and a lack of concern for potential harm to his clients and the public. Accordingly, the public interest and the administration of justice would be served by respondent's disbarment. (See, *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 332-334.)

Thus, respondent's disbarment is necessary to protect the public, the courts and the legal profession, to maintain high professional standards and to preserve public confidence in the profession. It would undermine the integrity of the disciplinary system and damage public confidence in the legal profession if respondent were not disbarred for his wilful and unexplained disobedience of the Review Department's April 21, 2005 order.

VI. Recommended Discipline

The court recommends that respondent **RUDOLF CORONA, JR.**, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

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

VII. Costs

The court recommends that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

VIII. Order of Involuntary Inactive Enrollment

It is ordered that respondent be transferred to involuntary inactive enrollment status under section 6007(c)(4) and rule 220(c) of the Rules of Procedure of the State Bar. The inactive enrollment will become effective three calendar days after this order is filed.

Dated: March 7, 2006

RICHARD A. HONN
Judge of the State Bar Court