

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

In the Matter of	)	<b>Case No. 06-N-11711-PEM</b>
<b>JOHN PASQUALE BRUNO,</b>	)	
<b>Member No. 32822,</b>	)	<b>DECISION AND ORDER OF</b>
<b>A Member of the State Bar.</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>

**I. Introduction**

In this default matter, respondent **John Pasquale Bruno** is found culpable, by clear and convincing evidence, of failing to comply with California Rules of Court, rule 955,<sup>1</sup> as ordered by the California Supreme Court on December 28, 2005, in case No. S138280 (State Bar Court case Nos. 02-O-012532; 03-O-02951 (Cons.)).

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 of California (State Bar). The Notice of Disciplinary Charges (NDC) was filed and properly served via certified mail, return receipt requested, on respondent at his official membership records address (official address) on June 15, 2006.

On July 7, 2006, the State Bar searched the official membership records for respondent's telephone number. However, no telephone number was listed for respondent. The State Bar also checked directory assistance for the greater Los Angeles area, which includes the respondent's

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<sup>1</sup>All references to rule 955 are to California Rules of Court, rule 955. Rule 955 is renumbered to rule 9.20, effective January 1, 2007.

official address, and asked for all business and residential listings for respondent. Directory assistance had no listing for respondent.

On July 7, 2006, the State Bar also conducted several internet searches for respondent's telephone number and address. Several of the searches produced listings that matched respondent's name. At one number, a man identified himself as John Bruno, but stated he was not respondent. Several of the phone numbers were disconnected. The State Bar left messages at those numbers which matched respondent's name, but were not disconnected. However, the State Bar received no responses to the messages it left.

The State Bar also contacted the University of Southern California Law School (USC Law) from which respondent had graduated. USC Law had no current listing for respondent.

The State Bar finally contacted the Los Angeles County Department of Coroner to see if it had a record of respondent's death. It had no record on file for respondent.

On motion of the State Bar, respondent's default was entered on August 8, 2006. The order of entry of default was properly mailed to respondent's official address. Respondent was enrolled as an inactive member under Business and Professions Code section 6007(e)<sup>2</sup> on August 11, 2006.

Respondent never filed a response to the NDC. (Rules Proc. of State Bar, rule 103.)

Respondent did not participate in the disciplinary proceedings. The court took this matter under submission on August 28, 2006, following the filing of the State Bar's brief on culpability and discipline.

### **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 June 7, 1962, and has been

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

a member of the State Bar since that time.

**B. Violation of California Rules of Court, Rule 955**

On December 28, 2005, in S138280 (State Bar Court case Nos. 02-O-12532; 03-O-02951 (Cons.)), the California Supreme Court suspended respondent from the practice of law for three years, stayed the execution of the suspension, and actually suspended respondent for two years, and until he makes restitution and until the State Bar Court grants a motion to terminate his actual suspension under rule 205 of the Rules of Procedure of the State Bar. Among other things, the Supreme Court ordered respondent to comply with rule 955, subdivisions (a) and (c), within 30 and 40 days, respectively, after the effective date of the Supreme Court order. The order became effective January 27, 2006, 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 December 28, 2005, the Clerk of the California Supreme Court served upon respondent a copy of the Supreme Court order imposing discipline and directing respondent to comply with rule 955. Respondent received a copy of the order.

On January 19, 2006, the State Bar’s Office of Probation properly sent respondent a copy of the Supreme Court order, reminding him of his obligation to comply with rule 955. The mailing was not returned as undeliverable or for any other reason by the United States Postal Service.

Respondent was to have filed the rule 955 affidavit by March 8, 2006, but to date, he has not done so and has offered no explanation to this court for 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 Supreme Court.<sup>3</sup>

**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).)<sup>4</sup>

**B. Aggravation**

There are several aggravating factors. (Std. 1.2(b).)

Respondent's three prior records of discipline is an aggravating circumstance. (Std. 1.2(b)(i).)

1. In California Supreme Court case No. S038257 (State Bar Court case No. 89-O-10449; 90-O-18052 Cons.), effective June 11, 1994, discipline was imposed consisting of one year's stayed suspension and 18 months' probation with conditions, for violations of section 6068, subdivision (i) (two counts) and rules 3-500 and 4-100(A) of the State Bar Rules of Professional Conduct.<sup>5</sup> Respondent was also found culpable for violations of former RPC 2-111(A)(2), 6-101(A)(2), and 8-101(A) in two client matters.
2. In California Supreme Court case No. S041050 (State Bar Court case No. 91-O-07104), effective October 22, 1994, discipline was imposed consisting of six month's probation commencing consecutively to that imposed in Supreme Court case No.

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<sup>3</sup>Specifically, 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.

<sup>4</sup>All further references to standards are to this source.

<sup>5</sup>The California Rules of Professional Conduct are subsequently referred to as "RPC."

S038257 on conditions, including restitution. Respondent was found culpable, in one client matter, of violating section 6068, subdivision (m), and RPC 3-110(A), 3-700(A)(2), and 3-700(D)(2), as well as former RPC 2-111(A)(2) and 6-101(A).<sup>6</sup>

3. In the underlying matter, California Supreme Court case No. S138280 (State Bar Court case Nos. 02-O-012532; 03-O-02951 (Cons.)), effective January 27, 2006, respondent was suspended for three years, stayed, and was actually suspended for two years and until he makes restitution to Ramiro Rivera (or the Client Security Fund, if it has paid) in the amount of \$2,000 plus interest and until the State Bar Court terminates respondent's actual suspension under rule 205 of the Rules of Procedure of the State Bar. Respondent's misconduct included not performing legal services for which he was retained; not communicating with his client; not returning the client's file or refunding his money; and not cooperating with the State Bar's investigation of possible misconduct.

Respondent demonstrated indifference toward rectification of or atonement for the consequences of his misconduct by failing to comply with rule 955(c) even after the NDC in the instant proceeding was filed. (Std. 1.2(b)(v).)

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).)

## **V. Discussion**

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* (1988) 45 Cal.3d 1181, 1187.) Respondent has demonstrated an unwillingness to comply with the

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<sup>6</sup>The court notes that disciplinary orders that became effective on June 11 and October 22, 1994, involved misconduct occurring between October 1986 and February 1991, some 14 to 20 years ago. Accordingly, the 1994 disciplinary records are not given significant weight. (Cf. *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703,713 [17 years between acts of misconduct in two separate disciplinary matters].)

professional obligations and rules of court imposed on California attorneys although he has been given opportunities to do so. Moreover, he has repeatedly failed to participate in these disciplinary proceedings by defaulting in the underlying matter and in the instant case.

Therefore, respondent's disbarment is necessary to protect the public, the courts and the legal community, to maintain high professional standards and to preserve public confidence in the legal 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 disobedience of the Supreme Court order.

#### **VI. Recommended Discipline**

The court recommends that respondent **John Pasquale Bruno** 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 in accordance with 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: November \_\_, 2006

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**PAT McELROY**  
Judge of the State Bar Court