

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

In the Matter of)	Case No. 06-N-12261-RMT
MARGARET E. WATKINS)	
Member No. 175240,)	DECISION AND ORDER OF
A Member of the State Bar.)	INVOLUNTARY INACTIVE
)	ENROLLMENT

I. Introduction

In this default matter, respondent **Margaret E. Watkins** is found culpable, by clear and convincing evidence, of failing to comply with California Rules of Court, rule 955,¹ as ordered by the California Supreme Court on December 16, 2005, in case No. S137829 (State Bar Court case No. 04-O-12668).

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). On July 6, 2006, the Notice of Disciplinary Charges (NDC) was properly served via certified mail, return receipt requested, on respondent at her official membership records address (official address). The NDC was filed on July 7, 2006. The mailing was returned to the State Bar by the United States Postal Service, bearing the stamp, "No Longer at This Address."

The State Bar also sent a courtesy copy of the NDC to respondent by regular first class mail to an address that was contained in respondent's case file. The courtesy copy was not returned as undeliverable or for any other reason.

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

On July 28, 2006, the State Bar telephoned respondent at her official membership records number. The State Bar was advised that it had reached the number for Legal Services, but that respondent no longer worked there. The individual answering the phone for Legal Services was unable to provide any other telephone number where respondent might be contacted.

On August 8, 2006, the State Bar called directory assistance for the area which includes respondent's official membership records address and asked for all listings for respondent. Directory assistance had no listing for respondent. On that same date, the State Bar also searched Parker's Directory. However, Parker's did not have any address of which the State Bar was not already aware.

On motion of the State Bar, respondent's default was entered on September 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)² on September 11, 2006.

As of August 8, 2006, the date of the filing of the State Bar's motion for entry of default, respondent had not 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 September 19, 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 December 13, 1994, and has been a member of the State Bar since that time.

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

B. Violation of California Rules of Court, Rule 955

On December 16, 2005, in S137829 (State Bar Court case No. 04-O-12668), the California Supreme Court suspended respondent from the practice of law for one year, stayed the execution of the suspension, and actually suspended respondent for 30 days and until she makes restitution and until the State Bar Court grants a motion to terminate her 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 120 and 130 days, respectively, after the effective date of the Supreme Court order, if she was actually suspended for 90 days or more. The order became effective January 15, 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 . . . she has fully complied with those provisions of the order entered pursuant to this rule.”

On December 16, 2005, the Office of 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 was to have filed the rule 955 affidavit by May 25, 2006, but to date, she has not done so, and has offered no explanation to this court for her noncompliance. Whether respondent is aware of the requirements of rule 955 or of her 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.³

³Specifically, 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.

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).)⁴

B. Aggravation

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

Respondent's prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) In the underlying matter, California Supreme Court case No. 137829 (State Bar Court case No. 04-O-12668), effective January 15, 2006, respondent was suspended for one year, stayed, and was actually suspended for 30 days and until she makes restitution to Timothy McCulloch (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 failure to perform services, failure to render an accounting of client funds, failure to return unearned fees, and failure to cooperate with the State Bar.

Respondent demonstrated indifference toward rectification of or atonement for the consequences of her 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 her 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))

⁴All further references to standards are to this source.

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 professional obligations and rules of court imposed on California attorneys although she has been given the opportunity to do so. Moreover, she has failed to participate 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 her wilful disobedience of the Supreme Court order.

VI. Recommended Discipline

The court recommends that respondent **Margaret E. Watkins** be disbarred from the practice of law in the State of California and that her 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 Rules 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: October 11, 2006

ROBERT M. TALCOTT
Judge of the State Bar Court

