



By the order of the court, Judge David A Wiseman

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**FOR PUBLICATION**



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**CNMI SUPERIOR COURT**  
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**IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**IN RE THE MATTER OF:** ) **CIVIL CASE NO. 13-0017**  
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**STEPHEN C. WOODRUFF** ) **ORDER**  
) **RE: CONTEMPT**  
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**I. INTRODUCTION**

**THIS MATTER** came before the Court on September 27, 2013, at 1:30 p.m. in Courtroom 223A, pursuant to this Court’s order to show cause filed on September 19, 2013. The order to show cause required Stephen C. Woodruff (“Respondent”) to appear and show cause why he should not be held in contempt of court for failing to follow the orders set forth in this Court’s June 7, 2013 Disciplinary Action: Disbarment (“Disbarment Order”). Respondent appeared *pro se*. Thomas E. Clifford appeared as Disciplinary Counsel.

The Court has reviewed its Disbarment Order, which has not been stayed, and finds Respondent has violated the order as stated below.

**II. STANDARD OF REVIEW**

The proof for civil contempt must be clear and convincing. This standard is higher than preponderance of the evidence but lower than beyond a reasonable doubt. *See Commonwealth v. Aldan*, Crim No. 09-0103 (NMI Super. Ct. June 2, 2010) (Order Re: Contempt at 3) (internal citation omitted).

1 **III. APPLICABLE LAW**

2 “Contempt of court” is an act or omission that interferes with the administration of justice, through  
3 conduct that disobeys judicial orders, shows disregard and disrespect for the authority and dignity of the law,  
4 or tends to embarrass, impede or obstruct the court in the performance of its functions.” *Id.* at 4 (internal  
5 citation omitted). Upholding and ensuring the unimpeded and effective administration of justice, securing  
6 the dignity of the court, and affirming the fundamental supremacy of the law are the purposes of the law  
7 regarding contempt. *Id.* (internal citation omitted).

8 Judges can enforce their orders and affirm the rule of law for the benefit of the public by the sole  
9 means of the power of contempt, and it may constitute a violation of their sworn duty to fail to exercise it  
10 where appropriate. *Id.* (internal citation omitted). Courts would be mere boards of arbitration, whose  
11 judgments and decrees would be only advisory, without the power of contempt. *Id.* (citing *Gompers v*  
12 *Buck’s Stove & Range Co.*, 221 U.S. 418, 450 (1911)). “Furthermore, without the power of contempt, courts  
13 would be rendered powerless, no other judicial power could be exercised, and our system of justice would  
14 be in continual danger of being thwarted by the lawless.” *Aldan*, Crim. No. 09-0103 at 4 (citing *In re*  
15 *Contemnor Caron*, 110 Ohio Misc.2d 58, 71. Civil contempt flows from the Court’s inherent powers and  
16 may be used by a Court to enforce compliance with its lawful orders. *Commonwealth v. Borja*, 3 N.M.I.  
17 156, 164-65 (1992).

18 Contempt of court occurs when a party “violates a definite and specific court order requiring him to  
19 perform or refrain from performing a particular act or acts with knowledge of that order.” *Aldan*, Crim. No.  
20 09-0103 at 4 (quoting *SEC v. Bankers Alliance Corp.*, 881 F. Supp. 673,678 (D.D.C. 1995)). Upon a prima  
21 facie showing that the alleged contemnor is not in compliance with the court’s orders, the burden shifts to  
22 the alleged contemnor to produce evidence justifying his non-compliance. *Id.* When the burden shifts, the  
23 alleged contemnor has the burden of proving that it was impossible to comply with the court’s order. *Id.*  
24 “Where compliance is impossible, neither the moving party nor the court has any reason to proceed with the  
25 civil contempt action.” *Id.* (citing *United States v. Raylander*, 460 U.S. 752, 757 (1983)).

1 Upon finding contempt, the court has the power to render an order forcing compliance; the  
2 contemnor then has the ability to purge the contempt and obtain his release by affirmatively acting, “. . . and  
3 thereby carries the keys of his prison in his own pocket.” *Id.* (internal citations omitted).

4 **IV. DISCUSSION**

5 Per the Court’s Disbarment Order, Respondent was required to submit a list of current and pending  
6 clients to the Superior Court within thirty days of the entry of the order. The Disbarment Order was entered  
7 on June 7, 2013. As of the hearing held on September 27, 2013, no such list had been filed by Respondent.

8 The Disbarment Order also required Respondent to comply with all requirements set forth in Rule  
9 15 of the Commonwealth Disciplinary Rules and Procedures (“Rule 15”). Rule 15(d) requires, within ten  
10 days after the effective date of the disbarment order, which in this case would be July 8, 2013, a disbarred  
11 attorney to file with the Superior Court an affidavit showing he has complied with the provisions of the order  
12 and the disciplinary rules, and that he has notified all other state, territorial, federal and administrative  
13 jurisdictions to which he is admitted to practice of the disbarment as may be required by the rules of such  
14 jurisdictions.

15 Rule 15 also requires a disbarred attorney to promptly notify by registered or certified mail, return  
16 receipt requested, all clients being represented in pending matters of the disbarment and advising such clients  
17 to seek other legal assistance. With regard to pending litigation or administrative proceedings, a disbarred  
18 attorney is required to notify the client of the disbarment, advise the clients to substitute another attorney,  
19 and to notify the attorney for any adverse party, stating the place of residence of the client for the disbarred  
20 attorney.

21 Compliance with the Disbarment Order also required Respondent to pay for any costs of the  
22 prosecution of this matter, to pay to any clients the sum of any unearned retainer fees, and to reimburse the  
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1 clients detailed in the Disbarment Order.<sup>1</sup>

2 As of the September 27, 2013 hearing and approximately eighty days after said due date of  
3 compliance, Respondent had not filed with the Superior Court the said affidavit showing compliance with  
4 any of the above mentioned mandates. Therefore the burden shifts to Respondent to show by clear and  
5 convincing evidence why he has not complied with this Court's order to do so. If Respondent fails to meet  
6 this burden, the Court may hold him in civil contempt. Thus, we turn to the Order to Show Cause hearing  
7 to see if Respondent has met his burden.

8 During the proceedings, Respondent was given ample opportunity to show why he had not complied  
9 with the requirements set forth in the Court's Disbarment Order, which also implicated Rule 15. The Court  
10 notes Respondent's presentation of arguments regarding his noncompliance, including that he had requested  
11 a stay from the Commonwealth Supreme Court in this matter, that he had already notified his clients of his  
12 inability to practice law when the Commonwealth Supreme Court suspended him in February 2013, that he  
13 did not have any clients when the Disbarment Order was issued, and the orders of payment were not final  
14 orders.

15 The Court, however, is not swayed by Respondent's arguments. There is currently no effective stay  
16 in place that could divest this Court of its jurisdiction. Respondent simply included one line in his appeal  
17 to the Commonwealth Supreme Court requesting a stay. First, there is no stay in place because the Supreme  
18 Court has not yet granted or denied Respondent's request. Further, a motion for a stay must follow the  
19 guidelines set forth in Rule 8 of the Northern Mariana Islands Supreme Court Rules, which entails specific  
20 requirements beyond that of a single sentence requesting a stay.<sup>2</sup> Regarding Respondent's argument that  
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22 <sup>1</sup>The cost of prosecution has been approved by the Court in the sum of \$6,120.00. The reimbursement for several  
23 clients as set forth in the Disbarment Order is a total of \$2,850.00. The court shall issue a judgement for this amount.  
Respondent is not required to show cause at this time for nonpayment of these amounts.

24 <sup>2</sup> Rule 8 of the Northern Mariana Islands Supreme Court Rules provides that a motion for a stay must include: "(i)  
25 The reasons for granting the relief requested and the facts relied on; (ii) original or copies of affidavits or other sworn  
statements supporting facts subject to dispute; and (iii) relevant parts of the record."

1 he had no clients to notify of his disbarment because the Supreme Court had suspended him since February  
2 2013, the Court has no knowledge of this. The Supreme Court's suspension order of Respondent in  
3 February 2013 occurred long before the Disbarment Order and the Court fails to see a connection between  
4 that case and the current issue of disbarment and its requirements.

5 **V. CONCLUSION**

6 The Court finds Respondent has not shown by clear and convincing evidence why he justifiably  
7 failed to follow the Disbarment Order of June 7, 2013, which also mandated compliance with Rule 15.

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9 **BASED ON THE FOREGOING,**

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11 **IT IS HEREBY ORDERED** Respondent Stephen Woodruff, be, and hereby is, adjudged in civil  
12 contempt of Court for noncompliance with this Court's Disbarment Orders issued on June 7, 2013.

13 **IT IS FURTHER ORDERED** that Respondent shall serve a five day jail sentence, all suspended,  
14 subject to the condition that Respondent comply with the requirements of the Disbarment Order, as detailed  
15 herein, by October 8, 2013.

16 **IT IS FURTHER ORDERED** Respondent is ordered to pay the costs of Disciplinary Counsel's  
17 time spent in preparing for and attending to the instant matter. Disciplinary Counsel shall submit his billing  
18 to the Court within ten (10) days of this Order.

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20 **SO ORDERED this 2<sup>nd</sup> day of October, 2013.**

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23 DAVID A. WISEMAN, Associate Judge  
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