THE STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

PUBLIC MATTER

In the Matter of **STEPHAN Z. CUTLER,** **Member No. 63998,** A Member of the State Bar.	**Case Nos. 02-O-13991-RMT; 04-O-14499 (Consolidated)** **DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

I. Introduction

In these two consolidated default matters, respondent **STEPHAN Z. CUTLER** is charged with misconduct in two client matters and trust fund violations, including (1) failure to maintain a client trust account, (2) failure to perform competently, (3) misappropriation of client funds, (4) misrepresentation to a client regarding client funds, (5) failure to return unearned fees, and (6) failure to cooperate with the State Bar.

The court finds, by clear and convincing evidence, that respondent is culpable of the charged acts of misconduct. In view of respondent's serious misconduct and the evidence in aggravation, the court recommends that respondent be disbarred from the practice of law.

II. Pertinent Procedural History

A. Case No. 02-O-13991

This proceeding was initiated by the filing of a Notice of Disciplinary Charges (NDC) by the Office of Chief Trial Counsel of the State Bar of California (State Bar) on July 16, 2004. The NDC was properly served on respondent on the same date by certified mail, return receipt requested,

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addressed to respondent's official membership address (official address).[1] (Rules Proc. of State Bar, rule 60.)

A courtesy copy of the NDC was also sent by regular first class mail to respondent at 11 Golden Shore, Suite 260, Long Beach, CA 90802, and to attorney Richard Tarlow at 23679 Calabasas Road, #543, Calabasas, CA 91302. The NDCs were not returned by the U.S. Postal Service.

On September 13, 2004, the State Bar filed and served a Notice of Motion and Motion for Entry of Default.

On September 23, 2004, the respondent filed and served his response to the NDC.

At a November 30, 2004, status conference, attended by respondent, attorney Tarlow,[2] and deputy trial counsel Manuel Jimenez for the State Bar, the court ordered that the trial in the instant matter commence on March 14, 2005.

On March 3, 2005, respondent left two messages on a voice mail of the State Bar regarding case number 02-O-13991-RMT. However, he did not leave a return telephone number.

On March 14, 2005, the respondent, as well as his attorney, Richard Tarlow failed to appear for trial. Respondent's response to the NDC was stricken.

Based on the respondent's failure to appear at trial, the court entered his default pursuant to rule 201 of the Rules of Procedure of the State Bar. The Order for Entry of Default was filed on March 15, 2005. Respondent was enrolled as an inactive member under Business and Professions Code section 6007(e)[3] on March 18, 2005.

The State Bar's Brief on Culpability and Discipline was filed on April 13, 2005.

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[1]At all times since November 11, 2003, respondent's official address has been P.O. Box 3999, Long Beach, CA 90803.

[2]On October 18, 2004, a substitution of attorney form was filed with the State Bar Court, which named attorney Tarlow as the new legal representative for the respondent, who had previously been representing himself.

[3]References to section are to the Business and Professions Code, unless otherwise noted.

B. Case No. 04-O-14499

On February 18, 2005, the State Bar filed a second NDC, in case No. 04-O-14499. The NDC was properly served on respondent on the same date by certified mail, return receipt requested, addressed to respondent's official address. (Rules Proc. of State Bar, rule 60.) The NDC was returned by the post office with a stamp reading "Moved, Left no address."

Respondent did not file a response to the NDC.

In the interests of efficiency and economy, the court consolidated the two cases on May 21, 2005. The Status Conference Order and Order of Consolidation was served on respondent at his official address by first class mail, but was returned bearing a sticker saying, "Return to Sender Box Closed Unable to Forward Return to Sender."

On the State Bar's motion, respondent's default was entered on May 23, 2005, and respondent was enrolled as an inactive member on May 26, 2005, under section 6007(e). An order of entry of default was sent to respondent's official address by certified mail.

On May 24, 2005, the State Bar Court sent to respondent by regular first class mail a copy of the letter notifying the California Supreme Court that respondent was enrolled as an inactive member pursuant to the State Bar Court's May 23, 2005 order. That letter sent to respondent was returned bearing a sticker, saying, "Return to Sender Box Closed Unable to Forward Return to Sender."

Respondent did not participate in the disciplinary proceedings. The court took these consolidated matters under submission on June 16, 2005.

III. Findings of Fact and Conclusions of Law

All factual allegations of the two NDCs 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 27, 1975, and has since been a member of the State Bar of California.

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B. The Client Trust Account Matter (Case No. 02-O-13991)

In September 1997, Marilyn Staffin (Staffin) retained respondent to represent her in her divorce from John Staffin. In June 2000, judgment was entered in the matter. Pursuant to the terms of a stipulation, funds were to be deposited into a trust account on behalf of Staffin. A portion of the funds deposited into the trust account were to be used to pay Staffin's 2001 taxes; the remainder was to be disbursed to Staffin.

On or about October 12, 2001, respondent opened a client trust account at Wells Fargo Bank, account No. 954-5841158 (CTA). Both respondent and William Powell (Powell), John Staffin's attorney, were trustees for the CTA. Respondent deposited $37,267.09 into the account on or about October 12, 2001.

On or about March 11, 2002, respondent withdrew $27,000 from the CTA by endorsing or causing the withdrawal slip to be endorsed with Staffin's name and that of her ex-husband without their knowledge or consent.

On or about March 13, 2002, Tamara Cutler, respondent's wife and secretary, withdrew $10,000 from the CTA. Respondent did not inform Staffin that $10,000 had been withdrawn from the CTA.

As of March 31, 2002, the balance in the CTA was $430.60.

On or about April 9, 2002, Staffin informed respondent that her 2001 tax bill was $23,375. According to respondent, on April 10, 2002, his office mailed a check in the amount of $23,375, drawn on his "cost account" to the Internal Revenue Service (IRS) to pay Staffin's 2001 tax bill. The IRS has no record of receiving the check.

On April 11, 2002, respondent withdrew the remaining $430.72 from the CTA, and the account was closed. As of that date, respondent had not paid Staffin's 2001 taxes, nor had he disbursed Staffin's funds to her. Respondent also did not inform Staffin that the CTA had been closed.

At the time respondent closed the CTA, at least $37,267.09 plus interest should have been maintained in the account.

In May 2002, Staffin contacted Wells Fargo Bank and learned the Staffin trust account had

been closed on April 11, 2002. On or about May 28, 2002, the IRS sent a notice to Staffin informing her that her 2001 taxes had not been paid.

On May 28, 2002, respondent wrote a letter to an associate attorney with Powell's law firm, stating that Staffin's 2001 tax bill had been paid, and that the balance in the CTA was about $14,095.60. Respondent also stated in his May 28, 2002 letter that the remaining funds in the CTA would be disbursed to Staffin on June 11, 2002, unless there was an objection. Powell's firm did not object to the disbursement. However, respondent did not disburse the funds to Staffin as stated in the May 28, 2002 letter.

On or about September 12, 2002, Staffin sent respondent a certified letter requesting an accounting of all fees incurred in her dissolution matter and inquiring about the status of the funds that were supposed to be maintained in the CTA. Staffin's September 12, 2002, letter was returned unclaimed by respondent.

On or about October 9, 2002, respondent wrote Staffin a letter claiming that on April 23, 2002, his office prepared a check made payable to her in the amount of $14,095.60. According to respondent, the check was issued from the CTA. The CTA had been closed since April 11, 2002. In his letter to Staffin, respondent said the check for $14,095.60 was not sent to her because he wanted Powell's concurrence before closing the trust account. Respondent also stated in the October 9, 2002 letter that he wanted to transfer funds electronically from the CTA to the IRS.

As of October 9, 2002, respondent still had not informed Staffin that the CTA had been closed since April 11, 2002.

According to respondent, on November 4, 2002, he sent a letter to Stafffin informing her that she owed $1,846.20 in attorney fees. Also, according to respondent, included in that letter was a check for $12,249.40, issued on respondent's general account, made payable to Staffin. Staffin did not receive the November 4, 2002, letter, nor the check for $12,249.40.

On or about January 6, 2003, Staffin sent a check for $25,628.35 to the IRS to pay her 2001 tax bill plus any penalties and interest incurred.

On or about January 9, 2003, Staffin wrote to respondent regarding his failure to pay the 2001 tax bill and requested the return of her funds. Between April 2002 and January 2003, Staffin incurred

at least $644.69 in interest as a result of respondent's failure to timely pay Staffin's tax bill.

On or about January 24, 2003, Staffin sent a letter to respondent and respondent's wife/secretary. Staffin questioned why she owed respondent $1,846.20 in attorney fees. She also told respondent she had not received her funds from the CTA.

In February 2003, respondent's wife/secretary left a message for Staffin saying she would issue Staffin a new check (to replace the check for $12,249.40 which respondent said he had mailed to Staffin in his November 4, 2002 letter) when respondent received the file back from his counsel. In the message, respondent's wife also told Staffin that she would reimburse Staffin for any IRS penalties and interest incurred by Staffin, but only if Staffin closed her State Bar complaint against respondent.

In February 2003, respondent issued a check from his general account to Staffin in the amount of $23,375.

Count 1: Failure to Maintain Client Funds in Trust Account (Rules Prof. Conduct, Rule 4-100(A))[4]

Rule 4-100(A) provides that all funds received for the benefit of clients must be deposited in a client trust account and that no funds belonging to the attorney will be deposited therein or otherwise commingled therewith. It further provides that when the right of the attorney to receive a portion of trust funds is disputed by the client, the disputed portion must not be withdrawn until the dispute is finally resolved.

Respondent had a fiduciary duty to hold in trust the $37,267.09 which had been originally deposited in the CTA for Staffin's benefit. Instead, between March 11 and April 11, 2002, the respondent withdrew or allowed to be withdrawn the entirety of the funds from the CTA. Thus, respondent's failure to hold in trust the funds which had been deposited for the benefit of Staffin in the CTA was clearly and convincingly in violation of rule 4-100(A).

Count 2: Misappropriation (§ 6106)

Section 6106 provides that the member's commission of an act involving moral turpitude,

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[4]Reference to rule are to the current rules of Professional Conduct, unless otherwise noted.

dishonesty or corruption constitutes grounds for suspension or disbarment.

The mere fact that the balance in an attorney's client trust account has fallen below the total of amounts deposited in and purportedly held in trust supports a conclusion of misappropriation. (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474-475.) The rule regarding safekeeping of entrusted funds leaves no room for inquiry into the attorney's intent. (See *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113.)

Here, on or about October 12, 2001, respondent deposited into a CTA $37,267.09 for the benefit of Staffin. However, between March 11 and April 11, 2002, respondent and his wife/secretary began withdrawing funds from the account, until the balance dropped to zero on April 11, 2002. The CTA was then closed.

In February 2003, respondent issued a check from his general account to Staffin in the amount of $23,375. At the time of the filing of the NDC, respondent still had not disbursed the remaining $12,249.40 belonging to Staffin, despite her requests.

Therefore, because the balance in respondent's CTA fell below the entrusted funds of approximately $12,249.40, the amount which respondent had not repaid to Staffin, respondent misappropriated the money and committed an act of moral turpitude in wilful violation of section 6106.

Count 3: Moral Turpitude (§ 6106)

Section 6106 prohibits an attorney from engaging in conduct involving moral turpitude, dishonesty or corruption.

Respondent withdrew $27,000 from the CTA, by signing or causing to be signed the endorsements of Staffin and John Staffin, her ex-husband, without their knowledge or consent. By endorsing the withdrawal slip with the names of Staffin and John Staffin without their knowledge and consent, and by withdrawing funds from the CTA without Staffin's knowledge or consent, respondent committed acts of moral turpitude in wilful violation of section 6106.

Count 4: Misrepresentations (§ 6106)

In his October 9, 2002, letter to Staffin, respondent informed her that there were funds in the CTA which he wanted to transfer to the IRS on her behalf, and that he had issued a check made

payable to her from the CTA on April 23, 2002. By making those statements in the October 9, 2002, letter, informing Staffin that there were funds being held in the CTA when respondent knew or should have known that the CTA had been closed on April 11, 2002, respondent misrepresented a material fact regarding client funds to his client, an act of moral turpitude, in wilful violation of section 6106.

Count 5: Failure to Perform (Rule 3-110(A))

Rule 3-110A provides that a member must not intentionally, recklessly or repeatedly fail to perform legal services with competence.

By failing to pay Staffin's 2001 tax bill, and by failing to supervise the conduct of his wife/secretary as it related to the CTA and her communications with Staffin,[5] respondent repeatedly and recklessly failed to perform legal services with competence, in wilful violation of rule 3-110(A).

C. The Faciane Matter (Case No. 04-O-14499)

On or about July 9, 2003, Valorie Ferrouillet (Ferrouillet) hired respondent to represent her in a dissolution and child support matter. Ferrouillet paid respondent $3,500 as advanced fees, of which $2,000 was paid by Ferrouillet's mother, Mary Faciane (Faciane). There was no agreement that Faciane would pay for any additional fees incurred by Ferrouillet.

In a separate matter, on or about July 22, 2003, Faciane hired respondent to represent her in a dissolution matter. Faciane paid respondent $2,850 as advanced fees. Respondent informed Faciane that he would not initiate an action until Faciane provided him with a certain document. Faciane did not provide the document to respondent.

On or about September 26, 2003, Faciane left a voice mail for respondent on his office voice

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[5]Pursuant to Business and Professions Code section 6090.5(a)(2) it is cause for suspension, disbarment, or other discipline for any member, whether as a party or as an attorney for a party, to agree or seek agreement, that, "[t]he plaintiff shall withdraw a disciplinary complaint or shall not cooperate with the investigation or prosecution conducted by the disciplinary agency." Thus, the February 2003 message from respondent's wife/secretary to Staffin, stating that she would reimburse Staffin for any IRS penalties and interest incurred by Staffin, but only if Staffin closed her State Bar complaint against respondent, could have been used as evidence to support a finding of respondent's culpability under section 6090.5, had he been charged with a violation of that statute. However, since respondent was not charged in the NDC with a violation of section 6090.5, the court is unable to find him culpable thereunder.

mail, notifying him that she no longer wanted to proceed with the dissolution matter. She requested a refund.

On or about September 29, 2003, respondent mailed a letter to Faciane informing her that she needed to provide his firm with a letter instructing him to close her file, at which time he would provide a final accounting.

On or about October 9, 2003, Faciane mailed a letter to respondent instructing him to close her case and refund unearned fees.

On or about October 15, 2003, respondent left Faciane a voice mail message suggesting that he apply her money to Ferrouillet's matter. Faciane declined.

On or about October 27, 2003, respondent telephoned Faciane, and suggested that her money be applied to Ferrouillet's matter. Faciane again declined.

On or about November 12, 2003, Faciane mailed another letter to respondent asking that her money be refunded.

In or about December 2003, Faciane received a letter from respondent dated November 11, 2003, enclosing a fee summary including items relating to Ferrouillet's matter. Respondent indicated that a refund of $1,350 would be issued, if appropriate, as soon as he determined the status of Ferrouillet's matter.

On or about December 8, 2003, Faciane mailed another letter to respondent asking that her money be refunded.

On or about March 1, 2004, respondent mailed Faciane a letter stating that because of the balance due on Ferrouillet's matter, he would not refund any money to Faciane.

Respondent did not provide services of any value to Faciane. Respondent did not earn any of the advanced fees paid by Faciane. At no time did respondent refund any of the $2,850 paid by Faciane.

On or about September 16, 2004, pursuant to a complaint filed by Faciane, the State Bar opened an investigation.

On or about November 2, 2004, the State Bar wrote to respondent regarding the Faciane matter. On or about November 23, 2004, the State Bar again wrote to respondent regarding the

Faciane matter.

Both the November 2 and November 23, 2004 letters were sent by regular first class mail to respondent at his official address. The two letters were not returned as undeliverable or for any other reason.

The letters requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Faciane matter. Respondent did not respond to the State Bar's letters or otherwise communicate with the State Bar about the Faciane matter.

Count 1: Failure to Return Unearned Fees (Rule 3-700(D)(2))

Rule 3-700(D)(2) requires an attorney whose employment has terminated to refund promptly any part of a fee paid in advance that has not been earned. Respondent wilfully violated rule 3-700(D)(2) by failing to return any portion of the $2,850 advanced fees paid by Faciane when his employment was terminated on October 9, 2003, and he had not performed any service of value on behalf of Faciane.

Count 2: Failure to Cooperate with the State Bar (§ 6068(i))

Section 6068(i) provides that an attorney must cooperate and participate in any disciplinary investigation or proceeding pending against the attorney. By failing to respond to the State Bar's November 2 and November 23, 2004 letters or participate in the investigation of the Faciane matter, respondent failed to cooperate with the State Bar in wilful violation of section 6068(i).

IV. Mitigating and Aggravating Circumstances

A. Mitigation

No mitigating factor was submitted into evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)[6]

B. Aggravation

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

Respondent has a prior record of discipline. (Std. 1.2(b)(i).) In an order filed September 10, 1992, in case No. S027442 (State Bar Court case No. 87-O-12913), the Supreme Court ordered that

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[6]All further references to standards are to this source.

respondent be suspended from the practice of law for three years, stayed, and that he be placed on probation for three years with conditions of probation including restitution. Respondent's culpability in that proceeding, involving six client matters, resulted in part from a failure to return unearned fees to his clients. Respondent's misconduct was similar to that of the current misconduct found in the Faciane matter (case No. 04-O-14499).

Respondent committed multiple acts of wrongdoing, including failing to maintain client funds, misappropriating approximately $12,249.40 from a client, withdrawing $27,000 from a client trust account by endorsing the withdrawal slip with the name of the client and the client's ex-husband without their knowledge or consent, making misrepresentations of material facts regarding client funds to a client, failing to perform legal services competently, and failing to return unearned fees. (Std. 1.2(b)(ii).)

Respondent's misconduct caused his clients substantial harm. (Std. 1.2(b)(iv).) In addition to his misappropriating $12,240.49 from his client and failing to make restitution for the misappropriated funds, respondent's failure to competently perform legal services by failing to timely pay his client's tax bill resulted in his client incurring $649.69 in interest charges. Respondent has yet to refund the unearned fees of $2850 to Faciane.

Respondent demonstrated indifference toward rectification of or atonement for the consequences of his misconduct. (Std. 1.2(b)(v).) Despite repeated demands from his clients, respondent has yet to return the funds he misappropriated from Staffin, or any portion of the unearned fee advanced to him by Faciane.

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

V. Discussion

The purpose of State Bar 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; std. 1.3.)

Respondent's misconduct involved two client matters, multiple acts of misconduct and trust

account violations. The standards provide a broad range of sanctions ranging from reproval to disbarment, depending upon the gravity of the offenses and the harm to the client. (Stds. 1.6, 1.7, 2.2, 2.3, 2.6, and 2.10.) Standard 2.2(a) provides that wilful misappropriation of entrusted funds must result in disbarment absent compelling mitigation. Respondent's misappropriation of $12,249.40 is significant, and there is no compelling mitigation.

Standard 2.3 provides that culpability of moral turpitude and intentional dishonesty toward a court or a client must result in actual suspension or disbarment. As discussed above, respondent's misappropriation, misrepresentation, and withdrawal of money from a client trust account by endorsing withdrawal slips with the names of the client and her ex-husband, without their knowledge or consent were acts of moral turpitude.

The standards, however, are only guidelines and do not mandate the discipline to be imposed. (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) "[E]ach case must be resolved on its own particular facts and not by application of rigid standards." (*Id.* at p. 251.)

The State Bar urges disbarment, citing *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511 and *Kaplan v. State Bar* (1991) 52 Cal.3d 1067 in support of its recommendation.

In *Spaith,* the attorney was disbarred for misappropriating $40,000 from a client's personal injury settlement funds and misleading the client for over a year as to the status of the money. The Review Department did not find the attorney's financial difficulties in his law practice due to his poor management skills to be compelling mitigation.

In *Kaplan*, the Supreme Court disbarred an attorney who intentionally misappropriated $29,000 from his law firm over a seven-month period. In mitigation, the attorney had practiced some 12 years without prior discipline and suffered from emotional problems. The court, however, did not find these factors sufficiently compelling to warrant less than disbarment, noting that the attorney had taken the money for no apparent reason, and had not proved that he no longer suffered from the emotional problems.

The court also finds *Grim v. State Bar* (1991) 53 Cal.3d 21 instructive. In *Grim*, the Supreme

Court disbarred an attorney for misappropriating $5,546 from a client. The attorney did not make restitution until after the State Bar had commenced disciplinary proceedings. In aggravation, he was previously disciplined for commingling funds, took advantage of the client residing in another state and mismanaged his trust account. In mitigation, character witnesses testified to his good moral character and the attorney cooperated with the State Bar.

Unlike the attorneys in *Spaith*, *Kaplan,*or *Grim*, respondent failed to participate in this disciplinary proceeding. The court has no information about the underlying cause of respondent's offense or of any mitigating circumstances surrounding his misconduct.

It is settled that an attorney-client relationship is of the highest fiduciary character and always requires utmost fidelity and fair dealing on the part of the attorney. (*Beery v. State Bar* (1987) 43 Cal.3d 802, 813.) Here, respondent had flagrantly breached his fiduciary duties to his clients by failing to maintain client funds in a trust account, misappropriating client funds, withdrawing funds from a trust account by endorsing the client's name without the client's knowledge or consent, making misrepresentations to his client, and failing to perform competently.

As discussed, the misappropriation of client funds is a grievous breach of an attorney's ethical responsibilities, violates basic notions of honesty and endangers public confidence in the legal profession. In all but the most exceptional cases, it requires the imposition of the harshest discipline – disbarment. (See *Grim v. State Bar, supra,* 53 Cal.3d 21.)

Respondent's misappropriation of $12,249.40, withdrawal of $27,000 from the CTA by endorsing the client's name on a withdrawal slip without her knowledge or consent, and default in this matter weigh heavily in assessing the appropriate level of discipline. Like the attorney in *Grim*, the "misappropriation in this case . . . was not the result of carelessness or mistake; [respondent] acted deliberately and with full knowledge that the funds belonged to his client."

In recommending discipline, the "paramount concern is protection of the public, the courts and the integrity of the legal profession." (*Snyder v. State Bar* (1990) 49 Cal.3d 1302.) An attorney's failure to accept responsibility for actions which are wrong, or to understand that wrongfulness, is considered an aggravating factor. (*Carter v. State Bar* (1988) 44 Cal.3d 1091, 1100-1101.) Instead of cooperating with the State Bar or rectifying his misconduct, respondent defaulted in this

disciplinary proceeding.

Respondent "is not entitled to be recommended to the public as a person worthy of trust, and accordingly not entitled to continue to practice law." (*Resner v. State Bar* (1960) 53 Cal.2d 605, 615.) Therefore, based on the severity of the offense, the serious aggravating circumstances and the lack of compelling mitigating factors, the court recommends disbarment.

VI. Recommended Discipline

Accordingly, the court hereby recommends that respondent **STEPHAN Z. CUTLER** 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 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 (Bus. & Prof. Code, § 6086.10) and payable in accordance with Business and Professions Code section 6140.7.

VIII. Order of Involuntary Inactive Enrollment

It is ordered that respondent be transferred to involuntary inactive enrollment status. (Bus. & Prof. Code, § 6007(c)(4) and Rules Proc. of State Bar, rule 220(c).) The inactive enrollment will become effective three calendar days after service of this order.

Dated: September 13 , 2005

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 of California. 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 September 14, 2005, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

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

Stephan Zachary Cutler
Cutler Legal Associates Inc
P O Box 3999
Long Beach, CA 90803

[X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

GORDON GRENIER, Enforcement, Los Angeles
ANTHONY GARCIA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 14, 2005**.

Tammy R. Cleaver
Case Administrator
State Bar Court