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STATE BAR COURT CLERK'S OFFICE
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**THE STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of

MICHAEL G. CODER,

Member No. 60825,

A Member of the State Bar.

Case No. 03-N-01968-JMR

**DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT**

I. Introduction

In this default matter, Respondent **MICHAEL G. CODER** 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 California Supreme Court on March 3, 2003, in case No. S111658.

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 on Respondent on June 19, 2003, at his official membership records address. (Rules Proc. of State Bar, rules 60(b) and 583.) The State Bar received a return receipt signed by Walt Juce. A courtesy copy of the NDC was also sent to an alternate address at Zapworld.com, 501 4th Street, Santa Rosa, California 95401, and was not returned to the State Bar as undeliverable.

Before filing the NDC, the State Bar learned that Respondent's official membership records address and telephone number were incorrect. On May 28, 2003, the State Bar was able to reach

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



1 Respondent at an alternate telephone number. Respondent told the State Bar that he would file the
2 rule 955 declaration and update his membership records address.

3 On June 6, 2003, Respondent changed his official membership records address.

4 However, Respondent did not file a response to the NDC. (Rules Proc. of State Bar, rule
5 103.) On motion of the State Bar, Respondent's default was entered on August 4, 2003. The order
6 of entry of default was properly mailed to Respondent's official membership records address. A
7 courtesy copy was also sent to the Zapworld.com address. Respondent was enrolled as an inactive
8 member under Business and Professions Code section 6007(e)² on August 7, 2003.

9 Respondent did not participate in the disciplinary proceedings. The court took this matter
10 under submission on August 25, 2003.

11 **III. Findings of Fact and Conclusions of Law**

12 All factual allegations of the NDC are deemed admitted upon entry of Respondent's default
13 unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule
14 200(d)(1)(A).)

15 **A. Jurisdiction**

16 Respondent was admitted to the practice of law in California on December 16, 1974, and has
17 been a member of the State Bar since that time.

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

19 On March 3, 2003, the California Supreme Court in case No. S111658 (State Bar Court case
20 Nos. 00-O-14153; 01-O-01348; 01-O-02471; and 01-O-04467 (Cons.)) suspended Respondent from
21 the practice of law for one year, stayed the execution of the suspension, placed him on probation for
22 three years and actually suspended him for 90 days. Among other things, the Supreme Court
23 ordered Respondent to comply with rule 955, subdivisions (a) and (c), within 30 and 40 days,
24 respectively, after the effective date of the Supreme Court order. The order became effective April
25 2, 2003, and was duly served on Respondent.

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

1 Upon filing of the Supreme Court order, under rule 24(a) of the California Rules of Court,
2 the Office of the Clerk of the Supreme Court of California served upon Respondent a copy of the
3 order imposing discipline and directing Respondent to comply with rule 955. (See Evid. Code, §
4 664.)

5 On March 14, 2003, the Probation Unit of the State Bar properly sent Respondent a copy of
6 the Supreme Court order.

7 Respondent was to have filed the rule 955 affidavit by May 12, 2003, but to date, he has not
8 done so and has offered no explanation to this court for his noncompliance. Whether Respondent
9 is aware of the requirements of rule 955 or of his obligation to comply with those requirements is
10 immaterial. "Wilfulness" in the context of rule 955 does not require actual knowledge of the
11 provision which is violated. The Supreme Court has disbarred attorneys whose failure to keep their
12 official addresses current prevented them from learning that they had been ordered to comply with
13 rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

14 Therefore, the State Bar has established by clear and convincing evidence that Respondent
15 wilfully failed to comply with rule 955, as ordered by the Supreme Court.

16 **C. Violation of Business and Professions Code Section 6103**

17 Respondent's failure to comply with rule 955 also constitutes a violation of section 6103,
18 which requires attorneys to obey court orders and provides that the wilful disobedience or violation
19 of such orders constitutes cause for disbarment or suspension.

20 **IV. Mitigating and Aggravating Circumstances**

21 **A. Mitigation**

22 No mitigating evidence was submitted into evidence. (Rules Proc. of State Bar, tit. IV, Stds.
23 for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)³

24 **B. Aggravation**

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

26 Respondent's one prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).)

27 _____
28 ³All further references to standards are to this source.

1 In California Supreme Court case No. S111658, the underlying matter, he was suspended for one
2 year, stayed, and was placed on probation for three years with an actual suspension of 90 days for
3 his misconduct involving four clients.

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

7 Respondent's failure to participate in this disciplinary matter prior to the entry of his default
8 is a serious aggravating factor. (Std. 2(b)(vi).) His failure to cooperate with the State Bar is also
9 evidence in aggravation in that he was warned to file the rule 955 declaration during a May 28, 2003
10 telephone conference with the State Bar but did not heed to the advice.

11 **V. Discussion**

12 Respondent's wilful failure to comply with 955(c) is extremely serious misconduct for which
13 disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50
14 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned
15 parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar* (1988) 45
16 Cal.3d 1181, 1187.) Respondent has demonstrated an unwillingness to comply with the professional
17 obligations and rules of court imposed on California attorneys although he has been given several
18 opportunities to do so.

19 Therefore, Respondent's disbarment is necessary to protect the public, the courts and the
20 legal community, to maintain high professional standards and to preserve public confidence in the
21 legal profession. It would undermine the integrity of the disciplinary system and damage public
22 confidence in the legal profession if Respondent were not disbarred for his unexplained wilful
23 disobedience of the Supreme Court order.

24 **VI. Recommended Discipline**

25 The court recommends that Respondent **MICHAEL G. CODER** be disbarred from the
26 practice of law in the State of California and that his name be stricken from the rolls of attorneys in
27 this State.

28 It is also recommended that the Supreme Court order Respondent to comply with rule 955,

1 paragraphs (a) and (c), of the California Rules of Court, within 30 and 40 days, respectively, of the
2 effective date of its order imposing discipline in this matter.

3 **VII. Costs**

4 The court recommends that costs be awarded to the State Bar pursuant to section 6086.10,
5 and that those costs be payable in accordance with section 6140.7.

6 **VIII. Order of Involuntary Inactive Enrollment**

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

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14 Dated: November 20, 2003

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JOANN M. REMKE
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. 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 San Francisco, on November 20, 2003, 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:

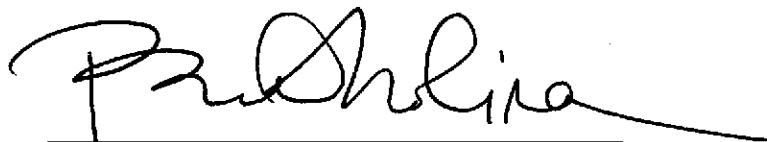
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

MICHAEL GARLAND CODER
LAW OFC MICHAEL G CODER
300 B ST #214
SANTA ROSA CA 95401 8528

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

WONDER LIANG , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 20, 2003.



Bernadette C. O. Molina
Case Administrator
State Bar Court