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**PUBLIC MATTER**

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**THE STATE BAR COURT**

**HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of

**VALERIE ANSEL KARPMAN,**

**Member No. 71425,**

**A Member of the State Bar.**

**Case No. 03-N-02204-JMR**

**DECISION INCLUDING DISBARMENT  
RECOMMENDATION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

**I. INTRODUCTION**

This matter was initiated by the Office of the Chief Trial Counsel of the State Bar of California ("State Bar") alleging that respondent Valerie Ansel Karpman failed to comply with rule 955, California Rules of Court ("rule 955") as ordered by the Supreme Court. The State Bar was represented by Tammy M. Albertsen-Murray. Respondent did not participate either in person or by counsel.

For the reasons stated below, it is recommended that respondent be disbarred.

**II. PROCEDURAL HISTORY**

The Notice of Disciplinary Charges ("NDC") was filed and properly served on respondent on July 31, 2003, by certified mail, return receipt requested, at the address shown on the official membership records of the State Bar ("official address"). (Bus. & Prof. Code, § 6002.1(c);<sup>1</sup> Rules Proc. of State Bar, rules 60(b) and 583.) Service was deemed complete as of the time of mailing. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.) This correspondence was returned

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<sup>1</sup>Unless otherwise stated, all future references to "section(s)" are to the Business and Professions Code.

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1 as undeliverable by the United States Postal Service ("USPS") with the notation "Return to  
2 sender. Attempted, not known."

3 On August 5, 2003, the State Bar Court properly served respondent by first-class mail,  
4 postage prepaid at her official address with notice scheduling a status conference on August 25,  
5 2003.

6 Respondent did not appear at the August 25, 2003, status conference. On that same date,  
7 respondent was properly served at her official address with a post-status conference order  
8 indicating that the court would entertain a motion for entry of respondent's default if there was  
9 no further contact with respondent. The order noted that respondent's telephone was  
10 disconnected. This correspondence was returned as undeliverable.

11 Respondent did not file a response to the NDC. On October 21, 2003, the State Bar filed  
12 and properly served on respondent a motion for entry of default by certified mail, return receipt  
13 requested, at her official address. (Rules Proc. of State Bar, rule 200(a), (b).) The motion  
14 advised respondent that the State Bar would seek her disbarment if she was found culpable.  
15 (Rules Proc. of State Bar, rule 200(a)(3).)

16 Respondent did not respond to the default motion. Orders entering respondent's default  
17 and involuntarily enrolling her inactive were filed and properly served on her on November 6,  
18 2003, by certified mail, return receipt requested at her official address. This document advised  
19 respondent, among other things, that she was enrolled inactive pursuant to section 6007(e)  
20 effective three days after service of the order. This correspondence was returned as  
21 undeliverable.

22 The State Bar's attempts to contact respondent were fruitless.

23 The case was submitted for decision after the State Bar waived hearing and filed a brief  
24 regarding discipline on November 7, 2003.

### 25 **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

26 The court's findings are based on the allegations contained in the NDC as they are  
27 deemed admitted and no further proof is required to establish the truth of those allegations.  
28 (Section 6088; Rules Proc. of State Bar, rule 200(d)(1)(A).) The findings also are based upon

1 matters admitted into evidence or judicially noticed.

2 Respondent was admitted to the practice of law in California on December 22, 1976, and  
3 has been a member of the State Bar at all times since.

4 On March 19, 2003, the Supreme Court filed an order ("Supreme Court order") in case  
5 no. S112321 (State Bar Court case no. 00-O-15051), imposing discipline on respondent  
6 including the following: stayed suspension of three years and until she made restitution and  
7 complied with standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct  
8 ("standard"), and an actual suspension of two years and until she made restitution, complied with  
9 standard 1.4(c)(ii) and complied with rule 205, of the Rules of Procedure of the State Bar. The  
10 Supreme Court further ordered respondent to comply with rule 955, subdivisions (a) and (c),  
11 within 30 and 40 days, respectively, after the effective date of the Supreme Court order. The  
12 Supreme Court order was effective on April 18, 2003. (Cal. Rules of Court, rule 953(a).) Thus,  
13 respondent was to comply with subdivision (a) of rule 955 no later than May 18, 2003, and with  
14 subdivision (c) of rule 955 no later than May 28, 2003.

15 Upon filing of the Supreme Court order, the Office of the Clerk of the Supreme Court of  
16 California sent respondent a copy of the said order imposing discipline and directing her  
17 compliance with rule 955.<sup>2</sup>

18 On March 26, 2003, the State Bar Probation Office wrote a letter to respondent reminding  
19 her of her obligation to comply with rule 955 and enclosing a copy of the Supreme Court order  
20 and a form for reporting compliance with rule 955. The letter was mailed to respondent's official  
21 address by first-class mail, postage prepaid. It was returned by the USPS as "Attempted - Not  
22 Known" and also bore the handwritten notation "Return to sender, not at this address."

23 A copy of the Supreme Court order also was attached to the NDC in the instant  
24 proceeding.

25 As of July 31, 2003, respondent had not filed with the State Bar Court the affidavit  
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28 <sup>2</sup>See, rule 24(a), California Rules of Court, and Evidence Code section 664.

1 required by rule 955(c). She still has not done so.<sup>3</sup> She has offered no explanation to this court  
2 for her failure to comply with rule 955(c).

3 Based on the foregoing, it has been proved by clear and convincing evidence that  
4 respondent wilfully violated the Supreme Court order directing her compliance with rule 955.<sup>4</sup>  
5 This constitutes a violation of section 6103, which requires attorneys to obey court orders.

#### 6 **IV. MITIGATING CIRCUMSTANCES**

7 Respondent did not participate in these proceedings or present any mitigating  
8 circumstances. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,  
9 standard 1.2(e).<sup>5</sup>) Since respondent bears the burden of establishing mitigation by clear and  
10 convincing evidence, the court has been provided no basis for finding mitigating factors.

#### 11 **V. AGGRAVATING CIRCUMSTANCES**

12 Respondent's prior discipline record is an aggravating circumstance. (Standard 1.2(b)(i).)  
13 As previously discussed, in Supreme Court case no. S112321, discipline was imposed on  
14 respondent including, among other things, an actual suspension of two years and until she made  
15 restitution, complied with standard 1.4(c)(ii) and complied with rule 205 of the Rules of  
16 Procedure of the State Bar. She was found culpable of violating Rules of Professional Conduct,  
17 rule 4-100(A), with regard to two client trust account checks and, as to one client matter, of  
18 violating rule 3-300 of the Rules of Professional Conduct and section 6106. Her 22 years of  
19 practice prior to the commencement of misconduct were the only mitigating factor. In  
20 aggravation, the court found multiple acts of misconduct, client harm and indifference toward  
21 rectification or atonement for her misconduct. The court notes that, as in the instant case,  
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24 <sup>3</sup>Pursuant to Evidence Code section 452(d), the court judicially notices that its records  
25 still do not contain a rule 955 affidavit from respondent.

26 <sup>4</sup>"Wilfulness" in the context of rule 955 does not require actual knowledge of the  
27 provision which is violated. The Supreme Court has disbarred an attorney whose failure to keep  
28 his official address current prevented him from learning that he had been ordered to comply with  
rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

<sup>5</sup>All further references to "standard" shall be to this source.

1 respondent defaulted in the prior proceeding.

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

5 Respondent's failure to participate in proceedings prior to the entry of default is also an  
6 aggravating factor. (Standard 1.2(b)(vi).) She has demonstrated her contemptuous attitude  
7 toward disciplinary proceedings as well as her failure to comprehend the duty of an officer of the  
8 court to participate therein, a serious aggravating factor. (*In the Matter of Stansbury* (Review  
9 Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103, 109 - 110.)

#### 10 VI. LEVEL OF DISCIPLINE

11 The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to  
12 protect the public, to preserve public confidence in the profession, and to maintain the highest  
13 possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111;  
14 *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; standard 1.3.)

15 Respondent's wilful failure to comply with Rule 955(c) is extremely serious misconduct  
16 for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar*  
17 (1990) 50 Cal.3d 116,131; Cal. Rules of Court, rule 955(d).) Disbarment has been consistently  
18 imposed by the Supreme Court as the sanction for noncompliance with rule 955. (*Bercovich v.*  
19 *State Bar, supra*, 50 Cal.3d at p. 131; *Lydon v. State Bar, supra*, 45 Cal.3d at p. 1188; *Powers v.*  
20 *State Bar, supra*, 44 Cal.3d at p. 342.)

21 Respondent has demonstrated an unwillingness to comply with the professional  
22 obligations and rules of court imposed on California attorneys although she has been given the  
23 opportunity to do so. She failed to participate in this proceeding and did not comply with rule  
24 955(c). More importantly, respondent's failure to comply with rule 955 undermines its  
25 prophylactic function in ensuring that all concerned parties learn about an attorney's suspension  
26 from the practice of law. (*Lydon v. State Bar, supra*, 45 Cal.3d at p. 1187.)

27 Respondent's disbarment is necessary to protect the public, the courts and the legal  
28 community, to maintain high professional standards and to preserve public confidence in the

1 legal profession. It would undermine the integrity of the disciplinary system and damage public  
2 confidence in the legal profession if respondent were not disbarred for her unexplained wilful  
3 disobedience of the Supreme Court's order.

4 **VII. DISCIPLINE RECOMMENDATION**

5 IT IS HEREBY RECOMMENDED that respondent Valerie Ansel Karpman be  
6 DISBARRED from the practice of law in the State of California and that her name be stricken  
7 from the rolls of attorneys in this state.

8 It is also recommended that the Supreme Court order respondent to comply with rule 955,  
9 paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of  
10 the Supreme Court order in the present proceeding, and to file the affidavit provided for in  
11 paragraph (c) within 40 days of the effective date of the order showing her compliance with said  
12 order.

13 **VIII. COSTS**

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

16 **IX. ORDER REGARDING INACTIVE ENROLLMENT**

17 It is ordered that respondent be transferred to involuntary inactive enrollment status  
18 pursuant to section 6007(c)(4). The inactive enrollment shall become effective three days from  
19 the date of service of this order and shall terminate upon the effective date of the Supreme  
20 Court's order imposing discipline herein or as otherwise ordered by the Supreme Court pursuant  
21 to its plenary jurisdiction.

22  
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24  
25  
26 Dated: December 31, 2003

  
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 December 31, 2003, I deposited a true copy of the following document(s):

**DECISION INCLUDING DISBARMENT RECOMMENDATION AND  
ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

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

- [X] by certified mail, No. 71603901984485358775, with return receipt requested, through the United States Postal Service at San Francisco, California, addressed as follows:

**VALERIE ANSEL KARPMAN  
700 MONTGOMERY ST  
SAN FRANCISCO CA 94111**

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

**TAMMY ALBERTSEN-MURRAY, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 31, 2003.



**Laine Silber**  
Case Administrator  
State Bar Court