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**THE STATE BAR COURT  
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of  
**CRAIG P. SEIDEN,**  
Member No. 100214,  
A Member of the State Bar.

Case No. 04-N-11975-JMR  
**DECISION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

**I. Introduction**

In this default matter, Respondent **CRAIG P. SEIDEN** is found culpable, by clear and convincing evidence, of failing to comply with rule 955 of the California Rules of Court,<sup>1</sup> as ordered by the California Supreme Court on January 12, 2004, in case No. S119943.

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 30, 2004, at his official membership records address at P.O. Box 4356, Mountain View, California 94040, which was returned as undeliverable. A courtesy copy of the NDC was sent to Respondent at 3610 Alder, Fremont, California 94536 (Fremont address) by regular mail. The mailing was not returned as undeliverable or for any other reason. (Rules Proc. of State Bar, rules 60(b) and 583.)

On August 3, 2004, the State Bar filed a motion for entry of default on the ground that

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<sup>1</sup>All references to rule 955 are to rule 955 of the California Rules of Court.

1 Respondent failed to file a response to the NDC. The motion was mailed to Respondent's official  
2 address and the Fremont address.

3 On July 24, 2004, the State Bar tried to reach Respondent by telephone at his official  
4 membership records telephone number but the number was invalid. The State Bar made a final  
5 attempt to find and contact Respondent by calling him on July 27 and August 3, 2004, at a number  
6 found in the State Bar's file. There was no answer nor was there any connection to an answering  
7 machine.

8 On motion of the State Bar, Respondent's default was entered on August 19, 2004. The order  
9 of entry of default was properly mailed to Respondent's official membership records address, which  
10 was returned as undeliverable. Respondent was enrolled as an inactive member under Business and  
11 Professions Code section 6007(e)<sup>2</sup> on August 22, 2004.

12 Respondent never filed a response to the NDC. (Rules Proc. of State Bar, rule 103.)

13 Respondent did not participate in the disciplinary proceedings. The court took this matter  
14 under submission on September 13, 2004, following the filing of State Bar's brief on culpability and  
15 discipline.

### 16 III. Findings of Fact and Conclusions of Law

17 All factual allegations of the NDC are deemed admitted upon entry of Respondent's default  
18 unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule  
19 200(d)(1)(A).)

#### 20 A. Jurisdiction

21 Respondent was admitted to the practice of law in California on December 1, 1981, and has  
22 been a member of the State Bar since that time.

#### 23 B. Violation of California Rules of Court, Rule 955

24 On January 12, 2004, the California Supreme Court in case No. S119943 (State Bar Court  
25 case No. 02-O-10687) suspended Respondent from the practice of law for two years, stayed the  
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27 <sup>2</sup>All references to sections are to the Business and Professions Code, unless otherwise  
28 indicated.

1 execution of the suspension and actually suspended him for 90 days and until the State Bar Court  
2 grants a motion to terminate his actual suspension under rule 205 of Rules of Procedure of the State  
3 Bar. Among other things, the Supreme Court ordered Respondent to comply with rule 955,  
4 subdivisions (a) and (c), within 30 and 40 days, respectively, after the effective date of the Supreme  
5 Court order. The order became effective February 11, 2004, and was duly served on Respondent.

6 Rule 955(c) mandates that Respondent "file with the Clerk of the State Bar Court an affidavit  
7 showing that he ... has fully complied with those provisions of the order entered pursuant to this  
8 rule."

9 Upon filing of the Supreme Court order, under rule 24(a) of the California Rules of Court,  
10 the Office of the Clerk of the Supreme Court of California served upon Respondent a copy of the  
11 order imposing discipline and directing Respondent to comply with rule 955. (See Evid. Code, §  
12 664.)

13 Respondent was to have filed the rule 955 affidavit by March 22, 2004, but to date, he has  
14 not done so and has offered no explanation to this court for his noncompliance. Whether  
15 Respondent is aware of the requirements of rule 955 or of his obligation to comply with those  
16 requirements is immaterial. "Wilfulness" in the context of rule 955 does not require actual  
17 knowledge of the provision which is violated. The Supreme Court has disbarred attorneys whose  
18 failure to keep their official addresses current prevented them from learning that they had been  
19 ordered to comply with rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

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

#### 22 **C. Violation of Business and Professions Code Section 6103**

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

### 26 **IV. Mitigating and Aggravating Circumstances**

#### 27 **A. Mitigation**

28 No mitigating evidence was submitted into evidence. (Rules Proc. of State Bar, tit. IV, Stds.

1 for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).<sup>3</sup>

2 **B. Aggravation**

3 Respondent's one prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).)  
4 In California Supreme Court case No. S119943, the underlying matter, he was suspended for two  
5 years, stayed, and was actually suspended for 90 days and until the State Bar Court terminates his  
6 actual suspension under rule 205 of the Rules of Procedure. His misconduct involved commingling  
7 personal funds in his client trust account and issuing NSF checks from his trust account.

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

11 Respondent's failure to participate in this disciplinary matter prior to the entry of his default  
12 is a serious aggravating factor. (Std. 2(b)(vi).)

13 **V. Discussion**

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

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

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28 <sup>3</sup>All further references to standards are to this source.

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**VI. Recommended Discipline**

The court recommends that Respondent **CRAIG P. SEIDEN** be disbarred from the practice of law in the State of California and that his name be stricken from the rolls of attorneys in this State.

It is also recommended that the Supreme Court order Respondent to comply with rule 955, paragraphs (a) and (c), of the California Rules of Court, 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 pursuant to section 6086.10, and that those costs be payable in accordance with section 6140.7.

**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 shall become effective three calendar days after this order is filed.

Dated: December 9, 2004

  
**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 9, 2004, 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:

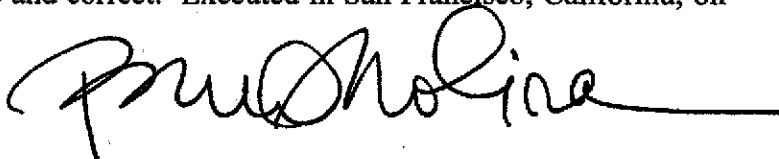
**CRAIG PHILIP SUTTON SEIDEN  
P O BOX 4356  
MOUNTAIN VIEW CA 94040**

**COURTESY COPY:  
CRAIG PHILIP SUTTON SEIDEN  
3610 ALDER  
FREMONT CA 94536**

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

**ROBIN HAFFNER, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 9, 2004.



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**Bernadette C. O. Molina**  
Case Administrator  
State Bar Court