



PUBLIC MATTER

FILED 

FEB 18 2005

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

In the Matter of

RICARDA LEE LIM,

Member No. 137700,

A Member of the State Bar.

Case No. 04-N-14666-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 Ricarda Lee Lim failed to comply with rule 955, California Rules of Court (rule 955) as ordered by the Supreme Court. The State Bar was represented by Mark Hartman. 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 November 5, 2004, 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);¹ Rules 60(b) and 583, Rules Proc. of State Bar.) Service was deemed complete as of the time of mailing. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.) This correspondence was returned as undeliverable by the United States Postal Service (USPS).

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

1 On November 8, 2004, the State Bar Court properly served respondent by first-class mail,
2 postage prepaid at her official address with a notice scheduling a status conference on December
3 13, 2004. The court judicially notices its records that this correspondence was returned as
4 undeliverable by the USPS.

5 Respondent did not file a response to the NDC. On December 10, 2004, State Bar filed
6 and properly served on respondent a motion for entry of default by certified mail, return receipt
7 requested, at her official address. (Rules Proc. of State Bar, rule 200(a), (b).) The motion
8 advised respondent that State Bar would seek disbarment if she was found culpable. (Rules Proc.
9 of State Bar, rule 200(a)(3).)

10 Respondent did not appear at the December 13 status conference. On December 13,
11 2004, an order memorializing the status conference was properly served on respondent at her
12 official address. The order advised respondent that if no response was filed by December 28,
13 2004, her default would be entered. This correspondence was also returned as undeliverable by
14 the USPS.

15 Respondent did not respond to the default motion. Orders entering respondent's default
16 and involuntarily enrolling her inactive were filed and properly served on her on December 28,
17 2004, by certified mail, return receipt requested at her official address. This document advised
18 respondent, among other things, that she was enrolled inactive pursuant to section 6007(e)
19 effective three days after service of the order. The court judicially notices its records which
20 indicate that the USPS returned this correspondence as undeliverable.

21 The State Bar's efforts to locate and contact respondent were fruitless.

22 The case was submitted for decision on January 18, 2004.

23 **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

28 Respondent was admitted to the practice of law in California on December 7, 1988, and

1 has been a member of the State Bar at all times since.

2 On June 23, 2004, the California Supreme Court filed an order in case no. S123708 (State
3 Bar Court case nos. 02-O-15879 and 03-H-02781) in which respondent was ordered, among
4 other things, to be actually suspended for 90 days and until she complied with rule 205 of the
5 Rules of Procedure of the State Bar. She was also ordered to comply with rule 955(a) and (c)
6 within 30 and 40 days, respectively, of the effective date of the Supreme Court order. The
7 Supreme Court order was effective on July 23, 2004. (Rule 953(a), Cal. Rules of Court.)
8 Accordingly, respondent was to comply with rule 955(c) no later than September 1, 2004.

9 Upon filing of the Supreme Court order, the Supreme Court sent respondent a copy of the
10 said order imposing discipline and directing her compliance with rule 955.²

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

13 On September 2, 2004, the State Bar's Probation Office wrote a letter to respondent
14 reminding her of the obligation to comply with rule 955, which included a form for reporting
15 compliance therewith and a copy of the Supreme Court's June 23, 2004 order. The letter
16 indicated that the rule 955(c) affidavit must be filed by September 1, 2004. The letter was sent
17 by first-class mail, postage prepaid, to respondent's State Bar membership records address. On
18 September 10, 2004, the letter was returned as undeliverable.

19 As of November 5, 2004, respondent had not filed with the State Bar Court the affidavit
20 required by rule 955(c). She still has not done so.³ She has offered no explanation to this court
21 for her failure to comply with rule 955(c).

22 Based on the foregoing, it has been proved by clear and convincing evidence that
23 respondent wilfully violated the Supreme Court order directing her compliance with rule 955.⁴

24
25 ²See, rule 24(a), California Rules of Court and Evidence Code section 664.

26 ³Pursuant to Evidence Code section 452(d), the court judicially notices that its records still do
27 not contain a rule 955(c) affidavit from respondent.

28 ⁴"Wilfulness" in the context of rule 955 does not require actual knowledge of the provision
which is violated. The Supreme Court has disbarred an attorney whose failure to keep her

1 This constitutes a violation of section 6103, which requires attorneys to obey court orders.

2 **IV. FINDINGS AND CONCLUSIONS AS TO MITIGATING CIRCUMSTANCES**

3 Respondent did not participate in these proceedings or present any mitigating
4 circumstances pursuant to standard 1.2(e), Rules of Procedure of the State Bar of California, Title
5 IV, Standards for Attorney Sanctions for Professional Misconduct.⁵ Since respondent bears the
6 burden of establishing mitigation by clear and convincing evidence, the court has been provided
7 no basis for finding mitigating factors.

8 **V. FINDINGS AND CONCLUSIONS AS TO AGGRAVATING CIRCUMSTANCES**

9 Respondent's prior discipline record is an aggravating circumstance. (Standard 1.2(b)(i).)
10 As previously discussed, in case no. S123708 the Supreme Court imposed discipline consisting
11 of two years stayed suspension and actual suspension of 90 days and until respondent complied
12 with rule 205 of the Rules of Procedure of the State Bar, among other things. In that matter,
13 respondent was found culpable of not complying with conditions of a reproof and in one client
14 matter of violating Rule of Professional Conduct, rules 3-110(A) and 3-510(A)(2) and sections
15 6068(i) and (m). Aggravating factors included one prior instance of discipline, multiple acts of
16 misconduct and not participating in the disciplinary proceedings. There were no mitigating
17 factors found in that default proceeding.

18 By order filed on December 5, 2002, respondent was publicly reproofed with conditions to
19 be completed in one year. (State Bar Court case no. 02-O-11064.) Discipline was imposed
20 based on misconduct in one client matter for not performing legal services competently; not
21 communicating with the client; abandoning the client; and not cooperating in the disciplinary
22 investigation. The parties further stipulated to one mitigating factor (no prior discipline) and one
23 aggravating factor (multiple acts of misconduct).

24 Respondent demonstrated indifference toward rectification of or atonement for the
25

26
27 official address current prevented him from learning that she had been ordered to comply with
rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

28 ⁵All further references to standard are to this source.

1 consequences of her misconduct by failing to comply with rule 955(c) even after the NDC in the
2 instant proceeding was filed. (Standard 1.2(b)(v).)

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

8 VI. LEVEL OF DISCIPLINE

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

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

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

25 Respondent's disbarment is necessary to protect the public, the courts and the legal
26 community, to maintain high professional standards and to preserve public confidence in the
27 legal profession. It would undermine the integrity of the disciplinary system and damage public
28 confidence in the legal profession if respondent were not disbarred for her unexplained wilful

1 disobedience of the Supreme Court 's order.

2 **VII. DISCIPLINE RECOMMENDATION**

3 IT IS HEREBY RECOMMENDED that respondent RICARDA LEE LIM be
4 DISBARRED from the practice of law in the State of California and that her name be stricken
5 from the rolls of attorneys in this state.

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

11 **VIII. COSTS**

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

14 **IX. ORDER REGARDING INACTIVE ENROLLMENT**

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

20
21
22
23 Dated: February 18, 2005

24 
25 JOANN M. REMKE
26 Judge of the State Bar Court
27
28

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 February 18, 2005, 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:

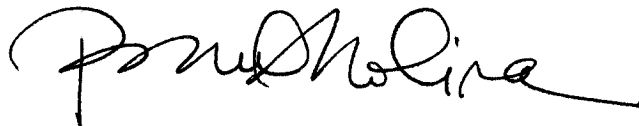
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

RICARDA L. LIM
7311 GREENHAVEN DR #180
SACRAMENTO CA 95831

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

MARK HARTMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **February 18, 2005.**



Bernadette C. O. Molina
Case Administrator
State Bar Court