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**FILED**

**MAR 14 2005** *YK*

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**THE STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES**

**PUBLIC MATTER**

In the Matter of  
**CAROL R. GULLA,**  
Member No. 164437  
A Member of the State Bar.

Case No. 04-N-15365-RMT  
**DECISION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

**INTRODUCTION**

The sole issue in this case is whether Respondent Carol R. Gulla wilfully failed to obey an order of the California Supreme Court requiring her to comply with rule 955 of the California Rules of Court and, if so, the appropriate discipline to be imposed.

For the reasons stated below, this Court finds, by clear and convincing evidence, that Respondent wilfully failed to comply with the requirements of rule 955, as ordered by the Supreme Court. As a result, this Court recommends that Respondent be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

**PROCEDURAL HISTORY**

This proceeding was initiated by the filing of a Notice of Disciplinary Charges ("NDC") by the Office of the Chief Trial Counsel of the State Bar of California ("State Bar") on December 20, 2004.<sup>1</sup> The NDC was properly served upon Respondent on December 20, 2004, by

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<sup>1</sup>The notice was filed on December 20, 2004, and a supplement to the notice, in particular a copy of the Supreme Court order that led to this disciplinary proceeding, was filed on December 23, 2004.



1 certified mail, return receipt requested, addressed to Respondent's official membership address  
2 ("official address") pursuant to Business and Professions Code section 6002.1, subdivision (c)  
3 and rule 60 of the Rules of Procedure of the State Bar ("Rules of Procedure").<sup>2</sup>

4 Respondent did not file an answer to the NDC. Thereafter, on January 18, 2005, the  
5 State Bar filed a Notice of Motion and Motion for Entry of Default. The motion was properly  
6 served upon Respondent on January 18, 2005, by certified mail, return receipt requested, at her  
7 official address.

8 The Court entered Respondent's default on February 3, 2005, after Respondent failed to  
9 file an answer to the NDC within ten days after service of the Motion for Entry of Default. (See  
10 Rules Proc. of State Bar, rule 200(c).) Notice of Entry of Default was properly served upon  
11 Respondent on February 3, 2005, by certified mail addressed to her at her official address.

12 The State Bar did not file a waiver of the hearing in this matter, however, no request was  
13 made for a hearing. There was no brief filed in this matter.

14 The State Bar was represented throughout these proceedings by Deputy Trial Counsel Gordon  
15 Grenier. Respondent did not participate at any stage of these proceedings, either personally or  
16 through counsel.

17 This matter was taken under submission as of February 4, 2005. However, on March 7,  
18 2005, the Court vacated the submission and ordered the State Bar to file an authenticated copy of  
19 Respondent's prior record of discipline as required by rule 216(a) of the Rules of Procedure.  
20 Thereafter, on March 9, 2005, the State Bar filed the prior record of discipline and the matter was  
21 submitted for decision on March 9, 2005.

#### 22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 Respondent was admitted to the practice of law in California on June 9, 1993, and has been  
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27 <sup>2</sup>Pursuant to Evidence Code § 452, the Court takes judicial notice of the membership  
28 records of the State Bar, which show that at all times since May 21, 2002, Respondent's official  
address has been P.O. Box 981, Big Bear Lake, CA 92315 0981.

1 a member of the State Bar at all times since.<sup>3</sup>

2 On, September 10, 2004 the Supreme Court of California entered a final disciplinary order  
3 in *In re Carol . Gulla on Discipline*, Supreme Court Case No. S125802 (State Bar Court Case  
4 No. 03-H-04503). In its order, the Supreme Court suspended Respondent from the practice of law  
5 for one year, stayed execution of the suspension, and actually suspended Respondent for 90 days and  
6 until she complied with rule 205 of the Rules of Procedure of the State Bar, which requires her to  
7 file a motion for the termination of her suspension.

8 As relevant to this proceeding, the Supreme Court also ordered Respondent to comply with  
9 subdivisions (a) and (c) of rule 955 of the California Rules of Court within 30 and 40 days,  
10 respectively, after the effective date of the Supreme Court's order. The order of the Supreme Court  
11 became effective on October 10, 2004.

12 Upon filing of the September 10, 2004, order, in accordance with rule 24(a) of the California  
13 Rules of Court, the Office of the Clerk of the Supreme Court of California served Respondent with  
14 a copy of the Supreme Court's order imposing discipline and directing Respondent's compliance  
15 with rule 955. (See Evid. Code, § 664.)

16 Respondent did not file an affidavit with the State Bar Court evidencing her compliance with  
17 the requirements of rule 955, as ordered by the Supreme Court, either by the date ordered by the  
18 Court or at any time thereafter.

19 The fact that Respondent may not be aware of the requirements of rule 955 or of her  
20 obligation to comply with those requirements is immaterial. "Wilfulness" in the context of rule 955  
21 does not require actual knowledge of the provision which is violated. The Supreme Court has  
22 disbarred attorneys whose failure to keep their official addresses current prevented them from  
23 learning that they had been ordered to comply with rule 955. (See *Powers v. State Bar* (1988) 44  
24 Cal.3d 337, 341.)

25 Accordingly, this Court concludes that the State Bar has established by clear and convincing  
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28 <sup>3</sup>Effective September 16, 2004, Respondent was suspended from the practice of law for  
failure to pay annual membership dues, and the suspension remains in effect (Evid. Code § 452.)

1 evidence that Respondent wilfully failed to comply with rule 955 by failing to file an affidavit  
2 attesting to her compliance with subdivision (a) of that rule, as ordered by the Supreme Court in its  
3 September 10, 2004, order. Respondent's failure to comply with rule 955, as ordered by the  
4 Supreme Court, also constitutes a wilful violation of Business and Professions Code section 6103  
5 which provides that the wilful disobedience or violation of an order of a court constitutes cause for  
6 disbarment or suspension.

7 **LEVEL OF DISCIPLINE**

8 **Factors in Mitigation**

9 There are no mitigating factors presented by the record in this proceeding.

10 **Factors in Aggravation**

11 Respondent has been disciplined on two previous occasions, which is an aggravating  
12 factor pursuant to Standard 1.2(b)(i) of the Standards for Attorney Sanctions for Professional  
13 Misconduct.

14 In case no. S125802 (State Bar Court Case No. 03-H-04503), the underlying disciplinary  
15 matter, Respondent was suspended from the practice of law for one year, execution was stayed and  
16 Respondent was actually suspended for 90 days, and until this court granted a motion to terminate  
17 that suspension. (Rule 205, of the Rules of Procedure.) Respondent was found culpable of failing  
18 to comply with conditions attached to an earlier reproof imposed against her, specifically, failing  
19 to file two quarterly reports and failing to submit a law office management plan by the required date.  
20 Respondent was found culpable of violating rule 1-110, which requires an attorney to comply with  
21 conditions attached to public and private reprovals.

22 In State Bar Court Case No. 02-O-13812, Respondent was publicly reproofed, effective May  
23 20, 2003, after being found culpable of misconduct in a single client matter, specifically, failure to  
24 competently perform legal services; improper withdrawal from employment; failure to release the  
25 client's file upon termination of employment; failure to refund unearned fees; and failure to  
26 adequately communicate.

27 Respondent's failure to file the rule 955 compliance affidavit with the Clerk of the State Bar  
28 Court significantly harmed the public and the administration of justice. (Standard 1.2(b)(iv).)

1 Respondent's failure to participate in this matter prior to the entry of her default demonstrates  
2 a lack of cooperation, and is an aggravating circumstance pursuant of standard 1.2(b)(vi).

3 **Discussion**

4 Rule 955(d) provides in part that "[a] suspended member's wilful failure to comply with the  
5 provisions of this rule constitutes a cause for disbarment or suspension and for revocation of any  
6 pending probation."

7 Timely compliance with rule 955 is essential to ensure that all concerned parties (including  
8 clients, co-counsel, opposing counsel and all courts in which the attorney has pending litigation)  
9 learn about the attorney's actual suspension from the practice of law. Compliance with rule 955 also  
10 keeps the State Bar Court and the Supreme Court informed of the location of attorneys who are  
11 subject to their respective disciplinary authority. (*Lydon v. State Bar* (1988) 45 Cal.3d 118, 1187.)

12 Disbarment is generally the appropriate sanction to be imposed for a wilful violation of rule  
13 955. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116,131.)

14 Respondent has exhibited a disregard for both the Supreme Court and the State Bar Court  
15 in their efforts to fulfill their respective responsibilities to oversee the practice of law in the State of  
16 California. Respondent's disregard is exemplified by (1) her failure to comply with rule 955; and  
17 (2) her failure to participate in this disciplinary matter.

18 This Court is unaware of any facts or circumstances that would justify a departure from the  
19 usual sanction of disbarment for Respondent's wilful violation of rule 955 and her resulting violation  
20 of Business and Professions Code section 6103. One of this Court's obligations is to ensure that its  
21 disciplinary recommendations to the Supreme Court are fair and consistent. (*In re Young* (1989)  
22 49 Cal.3d 257, 268.)

23 Respondent's disbarment is necessary to protect the public, the courts and the legal  
24 profession, to maintain high professional standards and to preserve public confidence in the  
25 profession. It would seriously undermine the integrity of the disciplinary system and damage public  
26 confidence in the legal profession if Respondent were not disbarred for her wilful and unexplained  
27 disobedience of the Supreme Court's September 10, 2004, order.

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**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 March 14, 2005, I deposited a true copy of the following document(s):

**DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT,  
filed March 14, 2005**

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:

**Carol R. Gulla  
P O Box 981  
Big Bear Lake, CA 92315 0981**

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

**GORDON GRENIER, Enforcement, Los Angeles**

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



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**Tammy R. Cleaver**  
Case Administrator  
State Bar Court