

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of	)	<b>Case No. 05-N-03358-RMT</b>
	)	
<b>REGINA DELYNN STEELE,</b>	)	<b>DECISION INCLUDING DISBARMENT</b>
	)	<b>RECOMMENDATION AND ORDER OF</b>
<b>Member No. 141596,</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>
<u>A Member of the State Bar.</u>	)	

**INTRODUCTION**

This matter was initiated by the Office of the Chief Trial Counsel of the State Bar of California (OCTC) alleging that respondent Regina Delynn Steele failed to comply with rule 955, California Rules of Court (rule 955) as ordered by the Supreme Court. OCTC was represented by Katherine D. Kinsey. Respondent did not participate either in person or by counsel.

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

**PROCEDURAL HISTORY**

The Notice of Disciplinary Charges (NDC) was filed and properly served on respondent on September 23, 2005, by certified mail, return receipt requested, at the address shown on the official membership records of the State Bar (official address). (Business and Professions Code section 6002.1(c)<sup>1</sup>; Rules 60(b) and 583, Rules Proc. of State Bar.<sup>2</sup>) 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).

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<sup>1</sup>Unless otherwise stated, future references to section are to the California Business and Professions Code.

<sup>2</sup>Further references to the Rules of Procedure are to this source.

Also on September 23, 2005, a copy of the NDC was served on respondent at an alternate address by regular mail. This correspondence was not returned as undeliverable.

On September 28, 2005, the State Bar Court properly served respondent by first-class mail, postage prepaid at her official address and at the alternate address with a notice scheduling a status conference on November 8, 2005. The court judicially notices its records that the correspondence sent to her official address was returned as undeliverable by the USPS but the one sent to the alternate address was not returned.

Respondent did not file a response to the NDC. On October 19, 2005, OCTC filed and properly served on respondent a motion for entry of default by certified mail, return receipt requested, at her official address and, by regular mail, at an alternate address in Los Angeles. (Rule 200(a), (b).) The motion advised respondent that OCTC would seek minimum discipline of disbarment if she was found culpable. (Rule 200(a)(3).)

Respondent did not respond to the default motion. Orders entering respondent's default and involuntarily enrolling her inactive were filed and properly served on her on November 8, 2005, by certified mail, return receipt requested at her official address. This document advised respondent, among other things, that she was enrolled inactive pursuant to section 6007(e) effective three days after service of the order. The court judicially notices its records which indicate that the USPS returned this correspondence as undeliverable.

OCTC's efforts to locate and contact respondent were fruitless.

The case was submitted for decision on November 28, 2005, after OCTC submitted a brief.

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

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

Respondent was admitted to the practice of law in California on August 14, 1989, and has been a member of the State Bar at all times since.

On January 20, 2005, the California Supreme Court filed an order, number S129005 (January 20, 2005, order) in State Bar Court case no. 03-O-04023 in which respondent was ordered, among other things, to be actually suspended for 30 days and until she completed specified restitution and until she complied with rule 205 of the Rules of Procedure. If she was actually suspended for 90 days or more, she was also ordered to comply with rule 955(a) and (c) within 120 and 130 days, respectively, of the effective date of the January 20, 2005 order.

Upon filing of the January 20, 2005, order, the Supreme Court sent respondent a copy of the said order imposing discipline and directing her compliance with rule 955.<sup>3</sup>

A copy of the January 20, 2005, order also was attached to the NDC in the instant proceeding.

The January 20, 2005, order was effective on February 19, 2005. (Rule 953(a), Cal. Rules of Court.) Respondent remained suspended for more than 90 days. Accordingly, respondent was to comply with rule 955(a) no later than June 20, 2005, and with rule 955(c) no later than June 30, 2005.<sup>4</sup>

On February 9, 2005, the State Bar's Probation Office wrote a letter to respondent reminding her of the obligation to comply with rule 955 which included a form for reporting compliance therewith and a copy of the Supreme Court's January 20, 2005, order. The letter indicated that the rule 955(c) affidavit must be filed by June 29, 2005.<sup>5</sup> The letter was sent by first-class mail, postage prepaid, to respondent's State Bar membership records address. The letter was returned as undeliverable and bore the notation "moved, left no address - unable to forward - return to sender".

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<sup>3</sup>See, rule 24(a), California Rules of Court, and Evidence Code section 664.

<sup>4</sup>The NDC states that the dates for compliance with rule 955(a) and (c) are June 19 and 29, 2005, respectively. However, June 19, 2005, was a Sunday, and, therefore the time for compliance would have been extended until the next business day, Monday, June 20. Accordingly, compliance with rule 955(c) was not required until June 30, 2005.

<sup>5</sup>The incorrect date for compliance is not a serious error in this instance since the letter was returned and since respondent has still not complied with the rule despite the passage of a considerable amount of time.

The February 9, 2005, letter was resent to respondent at her alternate address. It was not returned as undeliverable. She received the letter.

As of September 23, 2005, respondent had not filed with the State Bar Court the affidavit required by rule 955(c). She still has not done so.<sup>6</sup> She has offered no explanation to this court for her failure to comply with rule 955(c).

Based on the foregoing, it has been proved by clear and convincing evidence that respondent wilfully violated the January 20, 2005, order directing her compliance with rule 955.<sup>7</sup> This constitutes a violation of rule 955(d), which makes the wilful failure to comply with the provisions of rule 955 a cause for disbarment, suspension or revocation of probation, in relevant part. Accordingly, respondent wilfully disobeyed a court order requiring her to do an act connected with or in the course of her profession, which she ought in good faith to do, in violation of section 6103.

#### **FINDINGS AND CONCLUSIONS AS TO MITIGATING CIRCUMSTANCES**

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

#### **FINDINGS AND CONCLUSIONS AS TO AGGRAVATING CIRCUMSTANCES**

Respondent's prior discipline record is an aggravating circumstance. (Std. 1.2(b)(i).) As previously discussed, in order no. S129005, the Supreme Court imposed discipline consisting of two years' stayed suspension and actual suspension of 30 days and until she completed specified restitution and complied with rule 205 of the Rules of Procedure, among other things. In that

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<sup>6</sup>Pursuant to Evidence Code section 452(d), the court judicially notices that its records still do not contain a rule 955(c) affidavit from respondent.

<sup>7</sup>"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 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.)

default case, respondent was found culpable, in one client matter, of violating sections 6068(i) and (m) and rules 3-110(A), 3-700(A)(2), 3-700(D)(2) and 4-100(B)(3) of the Rules of Professional Conduct. She was allowed mitigation credit for 14 years of discipline-free practice prior to the commencement of the misconduct. Aggravating factors were multiple acts of misconduct, client harm, indifference to rectification of the misconduct and failure to participate in the proceedings prior to the entry of default.

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

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

#### **LEVEL OF DISCIPLINE**

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

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

Respondent has demonstrated an unwillingness to comply with the professional obligations and rules of court imposed on California attorneys although she has been given the opportunity to do so. She failed to participate in this proceeding and did not comply with rule

955(c). More importantly, respondent's failure to comply with rule 955 undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar, supra*, 45 Cal.3d at p. 1187.)

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

**DISCIPLINE RECOMMENDATION**

IT IS HEREBY RECOMMENDED that respondent REGINA DELYNN STEELE be DISBARRED from the practice of law in the State of California and that her 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, paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of the Supreme Court order in the present proceeding, and to file the affidavit provided for in paragraph (c) within 40 days of the effective date of the order showing her compliance with said order.

**COSTS**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**ORDER REGARDING INACTIVE ENROLLMENT**

It is ordered that respondent be transferred to involuntary inactive enrollment status pursuant to section 6007(c)(4). The inactive enrollment shall become effective three days from the date of service of this order and shall terminate upon the effective date of the Supreme

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Court's order imposing discipline herein or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: February \_\_\_\_, 2006

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ROBERT M. TALCOTT  
Judge of the State Bar Court