

STATE BAR COURT  
REVIEW DEPARTMENT

In the Matter of

**JEFFREY FRIEDMAN**

A Member of the State Bar

No. 92-N-11469

Filed September 14, 1993

**SUMMARY**

Respondent defaulted in two disciplinary cases. As a result of the second case, respondent received a five-month actual suspension and was required to comply with rule 955 of the California Rules of Court. Although he properly advised his clients of his suspension, he did not file the affidavit required by rule 955 until two weeks after it was due. Because of compelling mitigating circumstances, the likelihood that respondent would remain suspended for a considerable period due to three separate orders, and the lack of any public protection concerns, the hearing judge declined to impose any additional discipline for respondent's wilful violation. (Hon. Jennifer Gee, Hearing Judge.)

The State Bar requested review, seeking the actual suspension of respondent for six months, consecutive to any other discipline. The review department concluded that the hearing judge correctly found compelling mitigation, but that for the purpose of maintaining high professional standards and the integrity of the legal profession, some discipline was required. Given the minimal delay in respondent's compliance with rule 955 and the other mitigating evidence, a thirty-day suspension was sufficient discipline.

**COUNSEL FOR PARTIES**

For Office of Trials: Bruce H. Robinson

For Respondent: Jeffrey Friedman, in pro. per.

**HEADNOTES**

**[1 a, b] 513.90 Aggravation—Prior Record—Found but Discounted**  
**806.59 Standards—Disbarment After Two Priors**

Where respondent's two prior discipline cases occurred during the same four-month period when respondent's practice disintegrated, the two matters were considered as essentially a single matter in determining appropriate discipline.

- [2]     **515     Aggravation—Prior Record—Declined to Find**  
**695     Aggravation—Other—Declined to Find**  
**802.21   Standards—Definitions—Prior Record**  
 While a suspension for failure to pass the Professional Responsibility Examination may be considered in determining appropriate discipline, it is not prior discipline under the Standards for Attorney Sanctions for Professional Misconduct.
- [3]     **130     Procedure—Procedure on Review**  
**135     Procedure—Rules of Procedure**  
**136     Procedure—Rules of Practice**  
**194     Statutes Outside State Bar Act**  
 Because section 1013 of the Code of Civil Procedure applies by rule in State Bar Court proceedings, service of a hearing department decision by mail to an address within California extends by five days the 30-day period for filing a request for review. (Rule 450, Trans. Rules Proc. of State Bar; rule 1111(b), Provisional Rules of Practice.)
- [4 a, b] **163     Proof of Wilfulness**  
**204.10   Culpability—Wilfulness Requirement**  
**715.10   Mitigation—Good Faith—Found**  
**1913.11   Rule 955—Wilfulness—Definition**  
**1913.24   Rule 955—Delay—Filing Affidavit**  
**1913.90   Rule 955—Other Substantive Issues**  
 Respondent's carelessness and confusion concerning the requirements of rule 955 did not obviate culpability of wilful failure to file a rule 955 affidavit timely, where respondent did not seek relief based on good cause for his late filing. All that is necessary for a wilful violation of rule 955 is a general purpose or willingness to commit the act or make the omission. However, respondent's credible evidence of carelessness was properly considered in considering respondent's good faith attempts at timely compliance.
- [5]     **159     Evidence—Miscellaneous**  
**1913.24   Rule 955—Delay—Filing Affidavit**  
**1913.90   Rule 955—Other Substantive Issues**  
 The fact that an attorney's untimely affidavit under rule 955 is accepted for filing is not evidence of the attorney's compliance with the rule.
- [6]     **791     Mitigation—Other—Found**  
**863.30   Standards—Standard 2.6—Suspension**  
**1913.70   Rule 955—Lesser Sanction than Disbarment**  
 A respondent's substantial compliance with rule 955 is mitigating evidence which can influence the determination whether to impose discipline less than disbarment, the generally imposed sanction for a wilful violation of the rule.
- [7 a-c] **791     Mitigation—Other—Found**  
**801.49   Standards—Deviation From—Generally**  
**863.30   Standards—Standard 2.6—Suspension**  
**1913.24   Rule 955—Delay—Filing Affidavit**  
**1913.70   Rule 955—Lesser Sanction than Disbarment**  
 Where respondent had awakened to his responsibilities to the discipline system and participated in rule 955 proceeding, had produced evidence that he posed less risk to clients than suggested by

his prior disciplinary record, gave proper notice in compliance with rule 955(a), and filed the required affidavit only 14 days late and before referral order was issued or formal disciplinary proceedings initiated, respondent's very brief failure to comply with rule 955 warranted a very modest sanction. However, even given the wide range of discipline available for a rule 955 violation, it would require an extraordinary case where no discipline of any form was merited. Considering the emphasis placed by the Supreme Court on strict compliance with rule 955, as well as considerations of attorney discipline, maintenance of the standards of the profession, and respondent's rehabilitation, some discipline was required. A 30-day suspension would serve to underline to respondent the seriousness of his duty to comply with all aspects of court orders.

- [8 a, b]    **175      Discipline—Rule 955**  
              **801.30    Standards—Effect as Guidelines**  
              **801.41    Standards—Deviation From—Justified**  
              **801.47    Standards—Deviation From—Necessity to Explain**  
              **805.59    Standards—Effect of Prior Discipline**  
              **1913.90   Rule 955—Other Substantive Issues**

Any reasons for deviations from the standards or case law should be set forth clearly. A rigid application in rule 955 cases of the standard requiring that the degree of discipline should be greater than that imposed in any prior proceeding would result in a minimum actual suspension of 90 days in every rule 955 violation proceeding where there was prior discipline, since rule 955 obligations are not required for actual suspensions under 90 days. The standards should not be applied in such talismanic fashion, particularly where there is not a common thread or course of conduct through past and present misconduct to justify increased discipline.

- [9]        **715.10    Mitigation—Good Faith—Found**  
              **745.10    Mitigation—Remorse/Restitution—Found**  
              **791        Mitigation—Other—Found**  
              **805.59    Standards—Effect of Prior Discipline**  
              **1092      Substantive Issues re Discipline—Excessiveness**  
              **1913.24   Rule 955—Delay—Filing Affidavit**  
              **1913.70   Rule 955—Lesser Sanction than Disbarment**

Where respondent had filed his required rule 955 affidavit prior to the initiation of rule 955 proceedings by referral order, had met the notice requirements of the rule timely, had taken responsibility for his own errors, and, because of other discipline, might remain on actual suspension for over two years, a six-month actual suspension for respondent's untimely filing of his rule 955 affidavit would be excessive.

#### ADDITIONAL ANALYSIS

#### Mitigation

##### Found

- 720.10    Lack of Harm  
735.10    Candor—Bar

#### Discipline

- 1924.01   Actual Suspension—1 Month

##### Probation Conditions

- 1926      Standard 1.4(c)(ii)

#### Other

- 1915.30   Rule 955—Violation Found But Substantial Compliance

## OPINION

STOVITZ, J.:

This is the first case we have reviewed of a wilful violation of rule 955 of the California Rules of Court (rule 955) justifying only a very modest degree of discipline. The hearing judge found that respondent, Jeffrey Friedman, wilfully violated rule 955(c) solely by filing his required affidavit of compliance two weeks late. In light of compelling mitigating circumstances and the lack of any public protection concerns, and noting that respondent was likely to be suspended for a considerable period of time due to three separate orders, the hearing judge declined to impose any additional discipline for respondent's wilful violation.

Contending that mitigation was improperly considered and weighed, the Office of Trials has asked for our review, urging a six-month actual suspension consecutive to any other discipline. We conclude that this case does present the compelling mitigation identified by the hearing judge. However, we conclude that for the purpose of maintaining high professional standards and the integrity of the legal profession, some discipline is required. Given the minimal delay in respondent's compliance with rule 955 and other mitigating evidence, a 30-day suspension is sufficient discipline and we shall so recommend.

## I. BACKGROUND FACTS

Effective June 22, 1991, the Supreme Court suspended respondent for six months, stayed the execution of that suspension and placed him on probation for one year. He received an actual suspension of one month and until he made restitution. For convenience, we shall refer to this suspension as *Friedman I*.

On December 12, 1991, the Supreme Court suspended respondent based on an entirely different

disciplinary proceeding which we shall call *Friedman II*. This order suspended respondent from the practice of law in California for two years, stayed execution of that suspension, and placed him on probation for three years on conditions which included his actual suspension for five months, consecutive to the period of actual suspension previously ordered in *Friedman I* and until he made restitution to two clients. *Friedman II* also directed respondent to comply with and perform the acts specified in subdivisions (a) and (c) of rule 955, within 30 and 40 days, respectively, after the effective date, January 11, 1992.<sup>1</sup> Respondent had until February 20, 1992, to file his affidavit of rule 955 compliance.

Respondent admitted that he received a copy of the Supreme Court's order in *Friedman II*, but he testified that he did not read it closely as he claimed to not know of the proceeding and thought it was another copy of the suspension order in *Friedman I*. As he testified, "I merely put [the order in *Friedman II*] in the top right-hand drawer where all my Bar communications were of [sic] my desk and let it sit there."

By letter dated February 25, 1992, the State Bar Court Probation Department notified the Presiding Judge of this court that respondent had been notified of the provisions of the Supreme Court's December 12, 1991, order, and that he had failed to file an affidavit in compliance with rule 955. The probation department sent a copy of this letter to respondent. Respondent did not seek relief from this court for his untimely filing. On March 9, 1992, this court issued an order referring the matter for a hearing as to whether respondent wilfully failed to comply with rule 955 per the December 12, 1991, order and if so, for a recommendation as to the discipline to be imposed.

On March 5, 1992, prior to this court's referral order, respondent filed the required affidavit with the State Bar. It was executed on February 29, 1992. In it, respondent attested that he complied with rule

1. As pertinent here, rule 955(a) required respondent to notify clients, courts and opposing counsel by registered or certified mail in any pending matter of his suspension, to deliver to pending clients their papers or property and to file an affidavit

with this court attesting to his compliance. (See *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 327, fn. 1.)

955(a) in a timely manner and that the filing of the instant affidavit was not timely because he “was confused as to the requirement.”

The hearing below was held on October 1, 1992. The hearing judge found that respondent had notice of the Supreme Court’s order in *Friedman II* and wilfully failed to comply with rule 955 by failing to file the required affidavit by February 20, 1992. After weighing the aggravating and mitigating evidence, the hearing judge concluded that although disbarment is the usual discipline imposed for wilful violation of an order requiring compliance with rule 955, the facts and circumstances did not warrant the harsh discipline of disbarment or additional actual suspension. The hearing judge cited respondent’s substantial compliance with rule 955 by timely notifying his one California client and the court in that client’s pending case of his suspension; his full cooperation with the State Bar, and, in addition to the continuing suspension in *Friedman II*, two separate orders of suspension from practice on other grounds.<sup>2</sup> The hearing judge concluded that respondent’s concurrent suspensions would protect the public, and she noted that because of respondent’s strained financial situation, he would be unlikely in the near future to be able to afford to take the Professional Responsibility Examination, make restitution to his clients, and pay his outstanding State Bar membership fees, thus curing the suspensions.<sup>3</sup> The discipline from the prior proceedings had, in the judge’s view, impressed on respondent the gravity of his misconduct and the necessity of his continued rehabilitation. Therefore, she concluded that no additional discipline needed to be imposed in the case, and consistent with that conclusion, did not award costs.

## II. MITIGATING AND AGGRAVATING CIRCUMSTANCES

In aggravation, the hearing judge noted that respondent was admitted to practice in California on January 12, 1976, and had been disciplined twice—an aggravating circumstance under standard 1.2(b)(i). Both of the cases proceeded by default.<sup>4</sup>

In *Friedman I*, respondent abandoned two clients, failed to perform legal services competently for them, failed to return unearned fees from one of the clients, and failed to keep his address current with membership records. In *Friedman II*, respondent abandoned two additional clients, and in each instance, failed to perform legal services competently, failed to communicate significant legal developments, and failed to return unearned fees. In *Friedman II* he failed to cooperate with the State Bar by not answering four letters from the State Bar’s investigator. [1a] The two discipline cases occurred during the same four-month period from October 1988 until early 1989, when respondent’s law practice disintegrated and he closed his office. Because of this time proximity, the hearing judge in *Friedman II* considered the two matters as if they had been prosecuted as one in determining the appropriate discipline.

Effective July 16, 1992, we suspended respondent for failure to take and pass the Professional Responsibility Examination within one year as ordered in *Friedman I*. At the hearing below, the hearing judge rejected the deputy trial counsel’s argument that respondent’s failure to take the examination within the prescribed time constituted an aggravating circumstance. We agree with the hear-

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2. Respondent was suspended from practice on July 16, 1992, for failure to take and pass the Professional Responsibility Examination. We take judicial notice that he has also been suspended since August 10, 1992, for failure to pay State Bar membership fees.

3. Under the Supreme Court order in *Friedman II*, if respondent’s suspension for failure to pay restitution should exceed two years, he would be required to prove at a hearing pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, division V, Transitional Rules of Procedure of the State Bar (“standards”), his rehabilitation, fitness to practice law, and learning and ability in the general law.

4. At the hearing below, respondent argued his lack of notice of the second proceeding constituted mitigating evidence. He testified that he had sent his change of address to the membership records department of the State Bar, but his notice was rejected because it was not submitted on the office’s standard postcard. After learning of the second proceeding from service of the proposed Supreme Court order sent to his correct address, respondent attempted to have the default set aside in the second proceeding, but his petition for review was denied by the Supreme Court. (S022391, order filed December 12, 1991.)

ing judge. [2] We have stated that while a suspension for failure to pass the Professional Responsibility Examination may be considered in determining the appropriate discipline, it is not prior discipline under the standards. (*In the Matter of Babero, supra*, 2 Cal. State Bar Ct. Rptr. at p. 331.)

In mitigation, the hearing judge noted that respondent had substantially complied with rule 955, having met the requirements of rule 955(a) prior to the deadline, and, once notified of his omission under rule 955(c), filed his affidavit with the State Bar before any discipline proceedings were initiated or the referral order was filed. She found that respondent had recognized his mistakes, was working on rectifying his misconduct and showed a good faith effort, all mitigating factors. No clients were harmed by respondent's failure to file his affidavit timely and he was candid and cooperative with the State Bar during the proceedings.

### III. DISCUSSION

On review, the deputy trial counsel argues that the hearing judge's interpretation of law regarding rule 955 violations in light of the evidence is erroneous and her recommended discipline is inadequate. The deputy trial counsel disputes the concept that "substantial compliance" with rule 955 may excuse imposition of any discipline for failure to comply with all the requirements of the rule. He contends that the circumstances of respondent's failure to file timely the affidavit do not mandate disbarment, but do warrant imposition of a six-month actual suspension.

[3] In his brief, respondent asserts that the Office of Trials' request for review was untimely. His assertion is erroneous. Rule 450 of the Transitional Rules of Procedure provides that a written request for review must be filed within 30 days after service of the hearing judge's decision. Rule 1111(b) of the Provisional Rules of Practice of the State Bar Court incorporates the provisions of Code of Civil Procedure section 1013, which extends the 30-day period for filing 5 days for purposes of service within California. The hearing judge's decision was served October 27, 1992, and the Office of Trials' request for review filed December 1, 1992, met the prescribed time deadlines.

Respondent reiterates his contention that his failure to file his rule 955 affidavit on time was a result of carelessness, misunderstanding and confusion and was thus not a purposeful or wilful act. He asks that the recommendation not to impose discipline be upheld.

[4a] On the factual findings in the case, the deputy trial counsel asserts that there is absolutely no evidence in the record that respondent's late filing was a result of carelessness. We have reviewed respondent's testimony that he did not carefully read the Supreme Court's order when he received it and was busy at the time with his Nevada practice and the details of his own bankruptcy proceeding. Respondent also averred in his affidavit filed in compliance with rule 955 that he was confused as to the requirements of the rule, yet we note that respondent did not seek relief, based on any good cause, for his untimely filing. On this record, the hearing judge concluded correctly that any confusion on respondent's part did not obviate a wilful failure to comply with the affidavit requirement. All that is necessary for a wilful violation of rule 955 is a general purpose or willingness to commit the act, or make the omission referred to. (*Shapiro v. State Bar* (1990) 51 Cal.3d 251, 258, citing *Durbin v. State Bar* (1979) 23 Cal.3d 461, 467.) [5] That respondent's untimely rule 955 affidavit was accepted for filing is not evidence of his compliance with that rule. [4b] However, the hearing judge did find respondent's professed carelessness to be credible in considering his good faith attempts at timely compliance and we find no reason in this record to reverse her credibility finding.

[6] The deputy trial counsel argues that the hearing judge's reliance on respondent's substantial compliance with rule 955 was in error. We disagree. The generally imposed sanction for a wilful violation of rule 955 is disbarment, particularly when the wilful failure was as to the basic notice requirements of rule 955(a). (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *Powers v. State Bar* (1988) 44 Cal.3d 337, 342; *In the Matter of Babero, supra*, 2 Cal. State Bar Ct. Rptr. at p. 332.) The Supreme Court has considered an attorney's attempts to obey the dictates of the rule as mitigating evidence which influenced the determination whether to impose discipline less than disbarment. In *Durbin v. State Bar*,

*supra*, 23 Cal.3d 461, an attorney notified his client and all other required parties under rule 955(a) within the prescribed time period, but did not file the necessary affidavit with the Supreme Court under rule 955(c). Noting that the attorney's failure was only in reporting his compliance with rule 955(a) and that the purpose of rule 955(c) is to insure compliance with rule 955(a), the Court reduced the recommended discipline from one year actual suspension to six months or until the affidavit was filed, whichever was greater.

In *Shapiro v. State Bar*, *supra*, 51 Cal.3d 251, the attorney had also timely notified clients and others of his suspension, but did not file an affidavit conforming to rule 955(c) until five months after it was due. As to his wilful violation of the rule, the Supreme Court rejected his offer of evidence of misdirection by his probation monitor and his confusion about the requirements of the rule as unreasonable. Nevertheless, in weighing discipline, the Court considered the same evidence as demonstrating "a diligent, if ultimately unsuccessful, attempt to comply with the rule." (*Id.* at p. 259.) The Supreme Court noted that "the matter was resolved satisfactorily within several weeks, although by then our referral order had already triggered State Bar disciplinary proceedings." (*Ibid.*) Shapiro presented additional evidence concerning a back injury which was a factor in his misconduct and from which he had recovered. Considering Shapiro's long history of practice and the short period of time his misconduct spanned, the Supreme Court imposed a one-year actual suspension for both the rule 955 and one count of misconduct.

We have considered three rule 955 cases recently, all since the hearing judge's decision in this case, and we have recommended disbarment in each. Their facts are not comparable to this case. In *In the Matter of Babero*, *supra*, 2 Cal. State Bar Ct. Rptr. 322, we concurred with the hearing judge's assessment that the attorney's efforts at compliance were inadequate, his transfer of cases to successor counsel was done in an irresponsible manner, and his declaration filed in an attempt to comply with rule 955(c) contained inaccuracies. The attorney did not make any efforts, however belated, to comply with rule 955. We found what efforts the attorney made in

mitigation of his misconduct were not comparable to those demonstrated in the *Shapiro* and *Durbin* cases. Guided by the Supreme Court's decisions, we recommended disbarment.

In *In the Matter of Pierce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 382, the attorney filed a proper affidavit 21 days late, indicating that she had had no clients in the past three years. We noted that had the short delay been the sole issue, disbarment would not have been necessary. (*Id.* at p. 385.) However, the attorney had never participated in any of the disciplinary proceedings filed against her, including the later rule 955 hearing, and had exhibited extreme indifference to successive disciplinary orders. This risky practice of inattention posed a sufficient danger to the public that we recommended disbarment. (*Ibid.*)

In the third case, *In the Matter of Grueneich* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439, we confronted the dilemma of an attorney who, in spite of high personal ethics and devotion to some clients, harmed numerous clients through inattention, neglect, and chronic disorganization. In the consolidated probation revocation and rule 955 proceeding we reviewed, he did not comply with the conditions of his probation, never complied fully with rule 955(a) in advising courts where his clients' actions were pending of his suspension, and filed his required affidavit more than one year after it was due, even after repeated warnings from his probation monitor, the deputy trial counsel, and the hearing judge of the likelihood of disbarment as a consequence. (*Id.* at p. 442.) His participation in disciplinary proceedings had been sporadic at best. Finding nothing in the record to indicate that the attorney had control of the problems which led to his misconduct or that he was on the road to rehabilitation, we concluded that public protection mandated a disbarment recommendation. (*Id.* at pp. 443-444.)

[7a] In this instance, we have a respondent who, unlike *Pierce* and *Grueneich*, has awakened to his responsibilities to the discipline system. After having two original discipline cases go by default, he has participated at all stages of this proceeding. The proof he offered in the current rule 955 proceeding as to the prior two default matters showed the hearing

judge and us that respondent was a lesser risk to clients than suggested by the default records. In contrast with the *Babero* case, respondent gave the proper notice in compliance with rule 955(a). His affidavit was late by only 14 days, and was filed even before a referral order or formal disciplinary proceedings were initiated. Moreover, there is no indication in the record that respondent's affidavit was inaccurate. Respondent's very brief failure of compliance is much less serious than in the *Shapiro* and *Durbin* cases, in which the attorneys had met the requirements of rule 955(a), but had failed to file the rule 955(c) affidavit timely or at all. Finally, the hearing judge saw no concern that respondent was generally lax toward his responsibilities either to clients or to the State Bar.

[7b] Given these circumstances, we find this rule 955 case is an appropriate one for imposition of a very modest sanction. In recommending no additional discipline, the hearing judge was undoubtedly influenced by the extremely strong likelihood of respondent remaining on suspension for a considerable period of time as a result of the three separate orders we discussed, *ante*. Yet, we cannot agree with the hearing judge that respondent's willful violation does not merit some discipline. Under rule 955(d), a willful violation of the rule by a suspended member "constitutes cause for disbarment or suspension and for revocation of any pending probation." (Cal. Rules of Court, rule 955(d).) However, even granted that the range of discipline is wide for a rule 955 violation (*Durbin v. State Bar, supra*, 23 Cal.3d at p. 468) it would, in our view, require an extraordinary case where no discipline of any form was merited. In that regard, we note that but for the reminder respondent received when he had missed the deadline for filing his affidavit, he might have filed it much later or not at all.

[8a] Any reasons for deviation from the standards or case law should be set forth clearly. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.) [1b] Even if we view respondent's two prior disciplines as essentially a single matter, as did the hearing judge in this case, the standards provide that the degree of discipline should be greater than that imposed in the prior proceeding, unless the prior discipline is remote in time and the violation so minimal that

imposition of more severe discipline would be manifestly unjust. (Std. 1.7(a).) Under that standard, respondent's prior misconduct is not so remote in time nor so insignificant to warrant application of the exception. [8b] However, we cannot always apply standard 1.7(a) rigidly in each instance, since rule 955 violations will not always follow a respondent's prior discipline. Moreover, since rule 955 obligations are not required as discipline for actual suspensions under 90 days, a strict reading of standard 1.7 would necessitate in every such rule 955 case a minimum actual suspension of 90 days. The standards are not to be followed in a talismanic fashion (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221), particularly where there is not a common thread or course of conduct through the past and present misconduct to justify increased discipline. (*Arm v. State Bar* (1990) 50 Cal.3d 763, 780; see also *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 217.)

[9] Based on *Durbin v. State Bar, supra*, 23 Cal.3d 461, the Office of Trials urges that respondent be given a six-month prospective actual suspension. *Durbin* imposed a minimum six-month actual suspension on an attorney who had met the dictates of rule 955(a) but had not filed the affidavit. The *Durbin* case differs from this case in two significant aspects. The attorney in *Durbin* had not filed his affidavit by the time his rule 955 case was before the Supreme Court; respondent's was filed even before our referral order was issued. The Court also found *Durbin's* excuse for his noncompliance unpersuasive, which laid blame on alleged misdirection from an uncorroborated conversation with a State Bar employee and on a failure to keep records of or remember any of the names of the clients he had represented. (*Id.* at p. 468.) Here, respondent has taken responsibility for his own errors. Finally, the Office of Trials' recommended six-month suspension does not consider respondent's other discipline which may keep him suspended actually for two years with a possibility of being required to comply with standard 1.4(c)(ii).

We were initially concerned that respondent's misreading of the Supreme Court's order was indicative of continued confusion in his practice, which may have been a cause of his prior abandonment of clients. We are, however, persuaded by review of the

record, and encouraged by his participation in this disciplinary matter, his cooperation with the State Bar, and the short delay in his full compliance with all the requirements of rule 955. Respondent's continued suspension on other grounds does not resolve the question of his rehabilitation. He is challenged by his financial difficulties, which effectively bar him from practice in California until he can emerge from bankruptcy, pay restitution, take the Professional Responsibility Examination (PRE) and pay his State Bar membership fees. If respondent fails to pay restitution to his former clients by January 1994, he will be required to show at a hearing pursuant to standard 1.4(c)(ii), his rehabilitation, fitness to practice law, and learning and ability in the general law before being permitted to practice again. Moreover, respondent is on probation pursuant to *Friedman II*, and will continue in that status until January 1995. [7c] We conclude that considerations of attorney discipline, maintenance of the standards of the profession and the rehabilitation of respondent, call for some discipline for the wilful violation of the rule, especially considering the emphasis which the Supreme Court has placed on strict compliance with rule 955. Balancing all relevant factors, a 30-day suspension will serve to underline to respondent the seriousness of his duties to comply with all aspects of court orders.

#### IV. RECOMMENDED DISCIPLINE

For the foregoing reasons, we recommend that Jeffrey Friedman be suspended from the practice of law for 30 days, said suspension to start upon the expiration of either his actual suspension effective January 11, 1992, or upon expiration of his suspension for failure to pass the PRE, whichever previous suspension expires later. We also recommend that if respondent's January 1992 suspension coupled with the suspension imposed by the Supreme Court as a result of our recommendation exceeds two years, that respondent be required to make the showing required by standard 1.4(c)(ii). Since respondent must pass the PRE by separate Supreme Court order,

we do not include a separate recommendation for PRE passage. Since he has been under actual suspension continuously since January 11, 1992, we do not recommend that he be again ordered to comply with the provisions of rule 955. We do recommend that costs incurred by the State Bar in the investigation and hearing of this matter be awarded to the State Bar pursuant to Business and Professions Code section 6086.10, and that such costs be added to and become part of the membership fee of respondent for the calendar year next following the effective date of the Supreme Court order imposing discipline in this matter.

We concur:

PEARLMAN, P.J.  
NORIAN, J.