

PUBLIC MATTER

FILED

MAY 13 2004

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

In the Matter of

MICHAEL THOMAS DELL'OSSO,

No. 103439

A Member of the State Bar.

Case No. 04-AE-11653- PEM

ORDER GRANTING MOTION FOR  
INVOLUNTARY INACTIVE  
ENROLLMENT [Bus. & Prof. Code §  
6203(d); Rules 700, et seq., Rules Proc. of  
State Bar]

INTRODUCTION

On April 15, 2004, the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program and its Director and Special Deputy Trial Counsel filed a motion seeking the involuntary inactive enrollment of Award Debtor Michael Thomas Dell'Osso pursuant to Business and Professions Code section 6203(d)<sup>1</sup> due to his failure to pay a fee arbitration award. The motion was served upon Award Debtor at his membership records address on the same date, by both certified mail, return receipt requested, and by first-class regular mail.<sup>2</sup> (Bus. and Prof. Code § 6002.1, subd. (c); Rule 701(b), Rules Proc. of State Bar ("rule").)

Award Debtor did not file a response to the motion or request a hearing. (Rule 702(a) and (b); rule 704.)

<sup>1</sup> All references to "section" are to the Business and Professions Code unless otherwise stated.

<sup>2</sup> At all times since April 11, 1997, Award Debtor's membership records address has been 120 E 12<sup>th</sup> Street, Tracy, CA 95376



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2 This matter was submitted for decision without a hearing on May 5, 2004.

3 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

4 **Jurisdiction**

5 Award Debtor was admitted to the practice of law in California on June 10, 1982, and  
6 has been a member of the State Bar at all times since.

7 **Facts**

8 On July 2, 2003, the San Joaquin County Bar Association served a non-binding fee  
9 arbitration award in *Chris Hall v. Michael T. Dell'Osso*, Case No. 02- 920, directing Michael  
10 Dell'Osso to refund to Charles Hall, his former client, the sum of \$ \$350 in unearned attorney  
11 fees.

12 The award became final by operation of law on September 14, 2003, when the time  
13 period for the Award Debtor to move for trial after arbitration pursuant to section 6204 expired.

14 In a letter dated August 15, 2003, Charles Hall made a demand upon Award Debtor for  
15 payment of the arbitration award.

16 On September 24, 2003, Charles Hall filed a Request for Enforcement of an Arbitration  
17 Award ("enforcement request") with the Mandatory Fee Arbitration Office of the State Bar of  
18 California ("State Bar") pursuant to section 6203(d).

19 On October 9, 2003, the State Bar served the Client's enforcement request, along with a  
20 letter, on Award Debtor by certified mail and by regular first- class mail at his official State Bar  
21 membership address ("official address"). The subject letter notified Award Debtor of the  
22 potential consequences for failing to comply with the award or to respond to enforcement  
23 request. The State Bar never received the Postal Service return receipt, but neither the  
24 correspondence sent by certified mail nor that sent by regular mail was returned as undelivered.  
25 Award Debtor did not respond to the enforcement request.

26 On November 13, 2003, the State Bar sent a letter to Award Debtor confirming his  
27 failure to reply and advising him that the matter was being forward to the Presiding Arbitrator for  
28 the issuance of an order imposing administrative penalties in the amount of \$1,000 pursuant to

1 section 6203(d)(3). Award Debtor did not respond to this letter.

2 On December 16, 2003, the Presiding Arbitrator issued an order imposing administrative  
3 penalties against Award Debtor in the amount of \$500 for his failure to comply with the award or  
4 to respond to the enforcement request within the required time period. The order stayed the  
5 imposition of the penalties for two weeks to allow Award Debtor a final opportunity to comply  
6 with the award or to respond to the enforcement request. The order was filed and served on  
7 Award Debtor by certified mail and by regular, first-class mail on December 16, 2003, at his  
8 official membership records address. The return receipt indicates December 19, 2003, as the date  
9 of delivery.

10 The administrative penalty of \$500 was imposed against Award Debtor and added to his  
11 membership fees for the 2004 calendar year, after she failed to respond within the two week  
12 period.

13 Award Debtor has not responded to any correspondence from the State Bar. To date,  
14 Award Debtor has not paid the arbitration award.

15 **Legal Conclusions**

16 The Court finds that the Presiding Arbitrator has met the burden of demonstrating, by  
17 clear and convincing evidence, that Award Debtor has failed to comply with the arbitration  
18 award and has not proposed a payment plan acceptable to the client or to the State Bar. (Section  
19 6203(d)(2)(a); rule 705(a).)

20 The Court also finds that Award Debtor has not met his burden of demonstrating, by  
21 clear and convincing evidence, that he is not personally responsible for making or ensuring  
22 payment of the award; that he is unable to pay the award; or that he has proposed and agrees to  
23 comply with a payment plan which the State Bar has unreasonably rejected as unsatisfactory.  
24 (Section 6203(d)(2)(B); rule 705(b).)

25  
26 **ORDER**

27 In light of the foregoing,

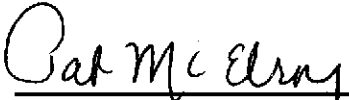
28 **IT IS HEREBY ORDERED** that Award Debtor Michael Thomas Dell'Osso be enrolled

1 as an inactive member of the State Bar of California, pursuant to section 6203(d)(1), effective  
2 five calendar days from the date of service of this order. (Rule 708(b)(1).)

3 **IT IS FURTHER ORDERED** that Award Debtor shall remain involuntarily enrolled as  
4 an inactive member of the State Bar until (1) he has paid the arbitration award to Charles Hall in  
5 the amount of \$350, plus interest at the rate of ten percent (10%) per annum from July 2, 2003;  
6 (2) he has paid the administrative penalty of \$500 assessed by the Presiding Arbitrator by order  
7 filed December 16, 2003; and (3) the Court grants a motion to terminate his inactive enrollment  
8 pursuant to rule 710 of the Rules of Procedure of the State Bar.

9 Reasonable costs are awarded to the State Bar upon the Presiding Arbitrator's submission  
10 of a bill of costs. (Section 6203(d)(3); rule 708(b)(2).)

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12 Dated: May 11, 2004

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15 Pat McElroy  
16 Judge of the State Bar Court  
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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. 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 May 13, 2004, I deposited a true copy of the following document(s):

**ORDER GRANTING MOTION FOR INVOLUNTARY INACTIVE  
ENROLLMENT [Bus. & Prof. Code § 6203(d); Rules 700, et seq., Rules Proc.  
Of State Bar]**

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 San Francisco, California, addressed as follows:

**MICHAEL THOMAS DELL'OSSO  
120 E 12<sup>TH</sup> ST  
TRACY CA 95376**

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

**JILL SPERBER, Fee Arbitration, San Francisco  
JOHN S. CHANG, Fee Arbitration, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 13, 2004.

  
George Hue  
Case Administrator  
State Bar Court