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FEB 18 2005

THE STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO **STATE BAR COURT CLERK'S OFFICE**
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In the Matter of)
COLIN J. KOOYUMJIAN,)
Member No. 172216,)
A Member of the State Bar.)

Case No. 04-AE-12469-PEM
04-AE-14184
**DECISION INCLUDING ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT**

INTRODUCTION

On June 14, 2004, the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program filed a motion seeking the involuntary inactive enrollment of Award Debtor Colin J. Kooyumjian, pursuant to Business and Professions Code section 6203(d)¹ due to his failure to pay a fee arbitration award. The motion was served at his official membership records address on June 11, 2004, by certified mail, return receipt requested, and by regular mail.

On September 1, 2004, the Presiding Arbitrator filed a motion seeking the involuntary inactive enrollment of Award Debtor due to his failure to pay another fee arbitration award. The motion was served at his official membership records address on that same date, by certified mail, return receipt requested, and by regular mail.

Award Debtor did not file a response to either motion or request a hearing. (Rules 702 (a) and (b) and 704.)

The matters were submitted for decision on February 3, 2004.

¹All future references to "section" are to the Business and Professions Code and to "rule" are to the Rules of Procedure of the State Bar unless otherwise stated.

1 On January 21, 2004, the State Bar served an order imposing \$1120 in administrative
2 penalties on Award Debtor and staying their imposition for 14 days to allow his to provide proof
3 of compliance with the arbitration award. Copies of the order were served on Award Debtor at
4 his official membership records address by certified mail and by regular mail. The return receipt
5 indicated that someone at Award Debtor's address received the order on January 23, 2004.
6 The order provided that the administrative penalties would not be imposed if Award Debtor
7 complied with the arbitration award within two weeks of service of the order. Since Award
8 Debtor did not respond, the penalties were imposed on February 6, 2004.

9 Award Debtor has not paid the award as of June 8, 2004. As of that same date, the State
10 Bar has not received any communication from Award Debtor regarding this matter and no
11 evidence that he has paid the award, is not personally responsible for its payment or is unable to
12 pay it.

13 Legal Conclusions

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

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

23 Case No. 04-AE-14184

24 Facts

25 On July 31, 2003, the Fresno County Bar Association served a nonbinding fee arbitration
26 award directing Award Debtor and Charles F. Magill, to refund to Danny Kredo the sum of
27 \$15,000 in attorney fees, plus \$100 in filing fees, for a total of \$15,100. (*Kehl v. Kooyumjian*
28 *and Magill*, case no. 4027.) Award Debtor and Magill were held jointly and severally

1 responsible for the arbitration award.

2 The award became final by operation of law on August 30, 2003.

3 On September 9, 2003, Charles Leath, attorney for Kredo, sent Award Debtor a letter
4 demanding payment of the arbitration award; however, Award Debtor did not respond to the
5 demand. In February 2004, Kredo submitted a request for enforcement of the arbitration award
6 pursuant to section 6203(d) to the State Bar's Office of Mandatory Fee Arbitration ("State Bar").

7 On February 24, 2004, the enforcement request was served on Award Debtor by certified
8 mail, return receipt requested, and by regular mail at his official membership records address.
9 Award Debtor also was notified of the consequences for failing to comply with the award or to
10 respond to the enforcement request by March 25, 2004. The return receipt indicates that
11 someone at Award Debtor's address received these items on February 27, 2004. Award Debtor
12 did not respond to the letter.

13 By letter dated March 29, 2004, the State Bar advised Award Debtor that the matter was
14 being forwarded to the Presiding Arbitrator to issue an order imposing administrative penalties in
15 the sum of \$3020. Award Debtor did not respond to the letter.

16 On May 10, 2004, the State Bar served an order imposing \$3020 in administrative
17 penalties on Award Debtor and staying their imposition for 14 days to allow his to provide proof
18 of compliance with the arbitration award. Copies of the order were served on Award Debtor at
19 his official membership records address by certified mail and by regular mail. The return receipt
20 indicated that someone at Award Debtor's address received the order on May 12, 2004.

21 The order provided that the administrative penalties would not be imposed if Award Debtor
22 complied with the arbitration award within two weeks of service of the order. Since Award
23 Debtor did not respond, the penalties were imposed.

24 Award Debtor has not paid the award as of August 30, 2004. As of that same date, the
25 State Bar has not received any communication from Award Debtor regarding this matter and no
26 evidence that he has paid the award, is not personally responsible for its payment or is unable to
27 pay it.

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 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:

**COLIN J. KOOYUMJIAN
2100 TULARE ST #512
FRESNO CA 93721**

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

**JILL SPERBER
JOHN CHANG
MANDATORY FEE ARBITRATION , San Francisco**

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


Laretta Cramer
Case Administrator
State Bar Court