

1 been a member since that time.

2 **B. Facts**

3 On December 2, 2003, the San Diego County Bar Association served a binding fee arbitration
4 award in *Hurley v. O'Keefe*, Case No. 252336, directing Christopher J. O'Keefe to refund to Peter
5 Hurley, his former client, the sum of \$9,300, which included \$8,500 for attorney's fees and \$800 for
6 costs.

7 The award became final on January 2, 2004, after neither party requested a trial de novo.

8 In a letter dated December 4, 2003, Hurley made demand upon Award Debtor for payment
9 of the arbitration award. Award Debtor did not reply to the letter and did not pay any portion of the
10 award to Hurley.

11 In March 2004, the State Bar received Hurley's request for enforcement of the arbitration
12 award pursuant to section 6203(d). On April 1, 2004, the enforcement request was served on Award
13 Debtor by certified mail and regular mail at his official membership records address. The State Bar
14 also advised him by letter of the potential consequences of failing to comply with the award or to
15 respond to the enforcement request by May 3, 2004. The return receipt for the certified mailing
16 indicates the mailing was received on April 3, 2004. However, Award Debtor did not respond to the
17 letter.

18 On April 29, 2004, the State Bar received a letter from a Dr. Gregory S. Paniccia, explaining
19 some health problems that Award Debtor was experiencing. In the letter, Dr. Paniccia asked that
20 the State Bar extend its deadline for payment of the arbitration award.

21 On May 4, 2004, the State Bar sent a letter to Award Debtor, acknowledging receipt of Dr.
22 Paniccia's letter and advising him that it was viewing the doctor's letter as an assertion of financial
23 inability to pay the award. The State Bar included with its letter to Award Debtor an Attorney's
24 Statement Re: Financial Status form, and requested that Award Debtor complete the form and return
25 it by May 24, 2004, with his proposed payment plan for the award. Award Debtor did not respond
26 to the letter.

27 By letter dated June 22, 2004, the State Bar advised Award Debtor that the matter was being
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1 forwarded to the Presiding Arbitrator for the issuance of an order imposing administrative penalties
2 in the amount of \$1,860.

3 On July 13, 2004, the State Bar served an Order Re: Administrative Penalties on Award
4 Debtor by both certified and regular mail at his office address. The order provided that the
5 imposition of penalties would be stayed for two weeks and not be imposed if Award Debtor
6 complied with the award within that time. The Postal Service did not return either mailing, although
7 the return receipt for the certified mailing was never received. Award Debtor did not respond to the
8 order.

9 Since Award Debtor did not pay the award, administrative penalties were imposed and added
10 to his membership dues for the following calendar year.

11 As of November 23, 2004, the State Bar had not received any response from Award Debtor
12 nor any evidence that he paid the arbitration award.²

13 **C. 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 has
16 not proposed a payment plan acceptable to the client or to the State Bar. (Section 6203(d)(2)(a);
17 Rules Proc. of State Bar, rule 705(a).)

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

23 **III. ORDER**

24 **IT IS ORDERED** that Award Debtor **CHRISTOPHER J. O'KEEFE** be enrolled as an
25 inactive member of the State Bar of California pursuant to section 6203(d)(1), effective five days
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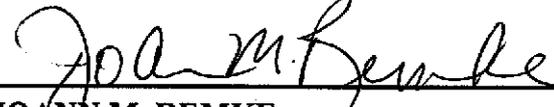
27 ²See the Declaration of Jill Sperber, Director of the State Bar's Office of Mandatory Fee
28 Arbitration, executed on November 23, 2004, which is Exhibit 4 in support of the motion for
involuntary inactive enrollment.

1 from the date of service of this order. (Rules Proc. of State Bar, rule 708(b)(1).)

2 **IT IS FURTHER ORDERED** that Award Debtor shall remain involuntarily enrolled as an
3 inactive member of the State Bar until he has paid the arbitration award to Peter Hurley in the
4 amount of \$9,300, plus interest at the rate of 10% per annum from December 2, 2003, the date of
5 service of the underlying arbitration award. (*Pierotti v. Torian* (2000) 81 Cal.App.4th 17, 26-27;
6 *Britz, Inc. v. Alfa-Laval Food & Dairy Co.* (1995) 34 Cal. App.4th 1085, 1106-1107; Civ. Code
7 section 3287.) Award Debtor shall remain involuntarily enrolled as an inactive member until the
8 court grants a motion to terminate his inactive enrollment pursuant to rule 710 of the Rules of
9 Procedure of the State Bar.

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

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14 Dated: February 17, 2005



JOANN M. REMKE
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 February 17 2005, I deposited a true copy of the following document(s):

**ORDER GRANTING MOTION FOR INVOLUNTARY INACTIVE
ENROLLMENT**

in a sealed envelope for collection and mailing on that date as follows:

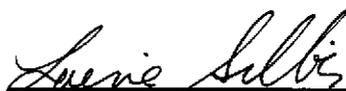
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

CHRISTOPHER J. O'KEEFE
4810 SUSSEX DR
SAN DIEGO CA 92116

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

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

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **February 17 2005**.



Laine Silber
Case Administrator
State Bar Court