

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 09-AE-19461-RAH
)	
ATTILIO MARIO REGOLO,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 140964,)	ENROLLMENT [Bus. & Prof. Code,
)	§ 6203, subd. (d); Rules Proc. of State Bar,
<u>A Member of the State Bar.</u>)	rule 700, et seq.]

I. INTRODUCTION

This matter is before the court on motion filed by the Presiding Arbitrator of the State Bar’s Mandatory Fee Arbitration Program, by and through his designee, Jill Sperber, Director of the Mandatory Fee Arbitration Program and Special Deputy Trial Counsel, seeking the involuntary inactive enrollment of Award Debtor **Attilio Mario Regolo** (“Award Debtor”), pursuant to Business and Professions Code section 6203, subdivision (d),¹ and rule 701 of the Rules of Procedure of the State Bar of California (“Rules of Procedure”) due to his failure to pay an arbitration award. Based on the State Bar’s motion and supporting documents, the court finds that Award Debtor has failed to comply with the arbitration award and has not produced a payment plan acceptable to the client or the State Bar.

II. SIGNIFICANT PROCEDURAL HISTORY

On December 28, 2009, the Presiding Arbitrator, by and through his designee, Jill Sperber, filed a motion seeking the involuntary inactive enrollment of Award Debtor. (Bus. & Prof. Code, section 6203, subd. (d), Rules Procedure of State Bar, rule 700, et seq.) A copy of

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

the motion was properly served at Award Debtor's official State Bar membership records address ("official address") on December 23, 2009, by certified mail, return receipt requested, and by regular mail.² Award Debtor failed to respond to the State Bar's motion or request a hearing (Rules of Procedure, rules 702 and 704).

On January 12, 2010, the court filed a Notice of Assignment. A copy of said notice was properly served on Award Debtor by first-class mail, postage fully prepaid, on January 12, 2010, at his official address. The copy of said notice was not subsequently returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

This matter was submitted for decision on January 14, 2010. A copy of the Submission Order was properly served on Award Debtor at his official address on January 14, 2010. The copy of the Submission Order was not subsequently returned to the State Bar by the U.S. Postal Service as undeliverable or for any other reason.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdiction

Award Debtor was admitted to the practice of law in California on June 6, 1989, and has been a member of the State Bar at all times since.

B. Facts

On November 12, 2007, Diana Tress ("Tress") requested mandatory fee arbitration with the Los Angeles County Bar Association to resolve a fee dispute with Award Debtor. On June 27, 2008, the Los Angeles County Bar Association served a non-binding arbitration award on the parties. It awarded Tress a refund in the amount of \$4,490. This award subsequently became final and binding because neither party filed a timely request for trial after arbitration.

On or about August 20, 2008, Tress sent a letter to Award Debtor demanding payment of the award. Award Debtor did not respond.

² The court takes judicial notice of the State Bar's official membership records pursuant to Evidence Code section 452, subdivision (h).

On October 9, 2008, Tress submitted a Client's Request for Enforcement of an Arbitration Award form ("Client's Enforcement Request") to the State Bar Office of Mandatory Fee Arbitration ("State Bar") pursuant to Business and Professions Code section 6203, subdivision (d).

On October 16, 2008, the State Bar served the Client's Enforcement Request on Award Debtor by regular and certified mail at his official address. Included in this mailing was a cover letter from the State Bar advising Award Debtor of the potential consequences for: (1) failing to comply with the arbitration award and (2) failing to respond to the Client's Enforcement Request by November 16, 2008. On or about October 27, 2008, Award Debtor sent the State Bar a reply stating that he that he never received notice of the hearing and that he would like the matter arbitrated again.³

On or about November 18, 2008, the State Bar sent a letter to Award Debtor stating that it intended to proceed with its enforcement of the arbitration award. Although this letter was addressed to Award Debtor's official address, it was returned as undeliverable.

Having received no communication from Award Debtor since his October 27, 2008 reply, the State Bar again attempted to reach him by letter dated January 7, 2009. Although this letter was addressed to Award Debtor's official address, it was returned as undeliverable.

On November 12, 2009, the State Bar sent Award Debtor another letter advising him of the State Bar's intent to file a motion to request his inactive enrollment for failing to comply with the arbitration award. This letter was addressed to Award Debtor at his official address.

On December 1, 2009, Award Debtor called the State Bar and agreed to submit a payment plan that day or the next to submit to the client. Award Debtor, however, failed to further communicate with the State Bar. Therefore, on December 8, 2009, the State Bar notified Award Debtor that it would commence formal proceedings.

³ Award Debtor had changed his official address on December 6, 2007, however, he did not notify the Los Angeles County Bar Association's fee arbitration program of this change. The Los Angeles County Bar Association properly followed its rules of procedure by serving Award Debtor with notice of the hearing at the last address that he provided to them.

As of December 22, 2009, the State Bar had not received any subsequent communication from Award Debtor.⁴

C. Conclusions of Law

The court finds that the Presiding Arbitrator has met the burden of demonstrating by clear and convincing evidence that Award Debtor has failed to comply with the arbitration award and has not produced a payment plan acceptable to the client or the State Bar. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules of Procedure, rule 705(a).)

Since Award Debtor did not participate in this proceeding, the court finds the Award Debtor has not met his burden of demonstrating by clear and convincing evidence that he is not personally responsible for making or ensuring payment of the award; that he is unable to pay it; or that he has proposed and agrees to comply with a payment plan which the State Bar has unreasonably rejected as unsatisfactory. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules of Procedure, rule 705(b).)

IV. ORDER

IT IS ORDERED that Award Debtor **Attilio Mario Regolo**, be enrolled as an inactive member of the State Bar of California pursuant to Business and Professions Code section 6203, subdivision (d)(1), effective five days after the date of service of this order. (Rules Procedure of State Bar, rule 708(b)(1).)

IT IS FURTHERED ORDERED that Award Debtor must remain involuntarily enrolled as an inactive member of the State Bar until: (1) he has paid the arbitration award to Diana Tress in the amount of \$4,490, plus interest at the rate of ten percent per annum from June 27, 2008, the date the award was served; (2) he has paid reasonable costs, if any; and (3) the court grants a motion to terminate the inactive enrollment pursuant to rule 710 of the Rules of Procedure of the State Bar of California.

⁴ There is no indication in the record that the State Bar has had any communication with Award Debtor since December 22, 2009.

Reasonable costs are awarded to the State Bar upon the Presiding Arbitrator's submission of a bill of costs. (Bus. & Prof. Code, § 6203, subd. (d)(3); Rules Proc. of State Bar, rule 708(b)(2).)

Dated: January 28, 2010

RICHARD A. HONN
Judge of the State Bar Court