FILED NOVEMBER 4, 2009

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: **09-TE-14734-LMA**
	)	
PAUL JEFFERY LUCAS,	)	**ORDER GRANTING APPLICATION**
	)	**FOR INVOLUNTARY INACTIVE**
Member No. 163076,	)	**ENROLLMENT**
	)	
A Member of the State Bar.	)	

I. INTRODUCTION

In this involuntary inactive enrollment proceeding, the Office of the Chief Trial Counsel of the State Bar of California (hereafter State Bar) filed an application seeking an order involuntarily enrolling respondent **PAUL JEFFERY LUCAS**[1] as an inactive member of the State Bar of California.[2] The State Bar seeks respondent's inactive enrollment under Business

[1] Respondent was admitted to the practice of law on December 14, 1992, and has been a member of the State Bar of California since that time.

[2] Of course, only *active* members of the State Bar of California may lawfully practice law in this state. (Bus. & Prof. Code, § 6125.) In fact, it is a crime for an inactive attorney (i.e., an attorney who has been enrolled inactive) to practice law, to attempt to practice of law, or to even hold himself or herself out as an attorney or as otherwise entitled to practice law. (Bus. & Prof. Code, § 6126, subd. (b).) Moreover, an inactive attorney cannot lawfully represent others before a state agency or in an administrative hearing even if laypersons are otherwise authorized to do so. (*Ibid*.; *Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)

and Professions Code section 6007, subdivision (c)(1)[3] because, according to the State Bar, respondent's conduct poses a substantial threat of harm to his clients or to the public.

As set forth *post*, the court finds: (1) that respondent was properly given notice of this proceeding; (2) that each of the factors set forth in section 6007, subdivision (c)(2) has been established by clear and convincing evidence; and (3) that respondent's conduct poses a substantial threat of harm both to his clients and to the public. (Rules Proc. of State Bar, rule 466(b).) Accordingly, the court will grant the application and order respondent's involuntary inactive enrollment under section 6007, subdivision (c)(1).

II. PROCEDURAL HISTORY

On September 21, 2009, the State Bar filed the verified application for involuntary inactive enrollment of respondent Paul Jeffery Lucas together with its supporting documents.[4] The supporting documents consist of 11 exhibits, which are attached to the application itself, and of declarations from 9 individuals (8 clients and 1 State Bar investigator), which are not attached to the application, but were filed as 9 separate documents. Also, on September 21, 2009, the State Bar filed a request for judicial notice in support of its application.

On September 22, 2009, the court set the application for a hearing on October 21, 2009, and properly notified the State Bar of that October 21, 2009, hearing date. (Rules Proc. of State Bar, rule 461(c).)

On September 23, 2009, the State Bar served, on respondent by personal delivery, copies of (1) the application for involuntary inactive enrollment together with its 11 attached exhibits, (2) the 9 supporting declarations, (3) the request for judicial notice in support of the application, and (4) the notice of the October 21, 2009, hearing date. (Rules Proc. of State Bar, rule 461(d).)

[3] All further statutory references are to the Business and Professions Code.

[4] In the application, the State Bar expressly waived its right to a hearing on the application.

Respondent's verified response to the application and request for a hearing were to have been filed no later than October 5, 2009. (Rules Proc. of State Bar, rule 462; Code Civ. Proc., § 12a, subd. (a).) Respondent, however, failed to file a verified response or request a hearing before that deadline. Respondent's failure to timely file a verified response and request a hearing clearly constitutes a waiver of his right to a hearing.[5] (Rules Proc. of State Bar, rule 462.) Accordingly, on October 7, 2009, the court filed an order in which it canceled the October 21, 2009, hearing on the application; took the application under submission for decision without a hearing; and noted that the court's decision on the application is to be filed no later than November 4, 2009 (Rules Proc. of State Bar, rule 466(a)).

On October 15, 2009, respondent filed a motion to dismiss this proceeding and alternative request to reset the cancelled hearing. The State Bar did not file a response to respondent's motion and alternative request.[6] In an order filed on October 29, 2009, the court denied respondent's motion and alternative request to reset the hearing.

In addition to not filing a verified response to the application or a request for a hearing, respondent did not file a response to the State Bar's September 21, 2009, request for judicial notice. In an order filed on October 30, 2009, the court granted the State Bar's request in part

[5] In accordance with Rules of Procedure of the State Bar, rule 461(b), the first page of the application contains, in prominent bold type, a notice to respondent that he *must* file a verified response to the application and request a hearing no later than 10 days after the service of the application on him, or he will *waive* his right to a hearing.

[6] According to the proof of service attached to respondent's motion and alternative request, Tony Rogell personally served a copy of respondent's motion and alternative request on Russell G. Weiner (the Acting Chief Trial Counsel of the State Bar of California) on October 13, 2009. In an email to one of the court's case administrators, the State Bar asserts that Acting Chief Trial Counsel Weiner was never personally served with a copy of respondent's motion and alternative request. In light of the expedited nature of the present proceeding, the court declines to address that matter in this proceeding. Thus, if this assertion is true, the State Bar should consider raising the matter in an original disciplinary proceeding.

and denied it in part.[7] Specifically, the court granted the State Bar's request to the extent that the court takes judicial notice of exhibits 4, 6, 7, 8, 9, and 10 to the application for involuntary inactive enrollment. Those six exhibits are certified copies of various court records from a Federal Trade Commission action against respondent, his law firm (i.e., Lucas Law Center), and others that is currently pending in the United States District Court for the Central District of California. (Evid. Code, § 452, subd. (d).) The probative value of those court records, which consist of court orders, pleadings, and reports of the court appointed receiver, is minimal. First, the State Bar did not seek to give preclusive effect to any of the findings in the federal district court's orders under principles of collateral estoppel. (See *In the Matter of Applicant A* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318, 329.) Thus, even though it is proper for this court to take judicial notice that the federal district court made particular findings of fact and rulings, it is improper for this court to take judicial notice that those findings are necessarily true or that the rulings are necessarily correct.[8] (*Sosinsky v. Grant* (1992) 6 Cal.App.4th 1548, 1564-1566.) Second, none of the noticed pleadings or receivers' reports was provided under penalty of perjury, and they are all clearly hearsay. Hearsay cannot be treated as true merely because it is contained in a court record that has been properly noticed. (*Day v. Sharp* (1975) 50 Cal.App.3d 904, 914.)

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[7] As noted in its October 30, 2009, order, the State Bar failed to cite to any specific authority to support its request.

[8] Moreover, because the State Bar did not proffer any of the evidence underlying the federal district court orders, this court cannot determine whether the findings in the orders are entitled to a strong presumption of validity in this State Bar Court proceeding. (*In the Matter of Applicant A, supra*, 3 Cal. State Bar Ct. Rptr. at p. 325 [even "prior civil findings made under the preponderance-of-the-evidence standard of proof are entitled to a strong presumption of validity in the State Bar proceedings if they are supported by substantial evidence"].)

III. OVERVIEW OF INVOLUNTARY INACTIVE ENROLLMENT PROCEEDINGS

Section 6007, subdivision (c)(1) authorizes the court to order that an attorney be involuntarily enrolled as an inactive member of the State Bar of California "upon a finding that the attorney's conduct poses a substantial threat of harm to the interests of the attorney's clients or to the public . . . ." When a transaction or occurrence relied on in support of an application for involuntary inactive enrollment is not already the subject of a notice of disciplinary charges that has already been filed or is filed simultaneously with the application (which is the case with every supporting transaction and occurrence in the present proceeding), the State Bar *must*, in the application, cite to the statutes, rules, or court orders that are alleged to have been violated or warrant the proposed action and identify each related act or omission that allegedly constitutes the violation of each cited statute, rule, or court order. (Cf. Rules Proc. of State Bar, rule 461(a)(3).) Unfortunately, the State Bar failed to do so in the present case.

In the application, the State Bar appears to be following a historic pleading practice of reciting all of the factual allegations separately from a catch-all charging paragraph that does not specify which factual allegations establish each alleged violation of a statute, rule, or court order. This practice has been repeatedly and severely criticized in original disciplinary proceedings by both the Supreme Court and the review department. (E.g., *Maltaman v. State Bar* (1987) 43 Cal.3d 924, 931; *Guzzetta v. State Bar* (1987) 43 Cal.3d 962, 968; *Baker v. State Bar* (1989) 49 Cal.3d 804, 816; *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, 185.) Those criticisms are equally valid in involuntary inactive enrollment proceedings. Without question, the State Bar's failure to identify with specificity both (1) the statute, rule, or court order underlying each alleged violation and (2) the manner in which respondent's conduct allegedly violated each cited statute, rule, or court order has unnecessarily made the work of this court more difficult. (*Baker v. State Bar*, *supra*, 49 Cal.3d at p. 816.) Nevertheless, the State

Bar's failure correlate each alleged act or omission with the specific statute, rule, or court order allegedly violated by the act or omission is a pleading defect, which defect respondent waived by not objecting to it in a verified response to the application for involuntary inactive enrollment.

Before this court may find that an attorney's conduct poses such a substantial threat of harm, section 6007, subdivision (c)(2)(A) through (C) requires that the State Bar first prove, by clear and convincing evidence, the following three factors.

> (A) The attorney has caused or is causing substantial harm to the attorney's clients or the public.
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> (B) The attorney's clients or the public are likely to suffer greater injury from the denial of the involuntary enrollment than the attorney is likely to suffer if it is granted, or there is a reasonable likelihood the harm will recur or continue. Where the evidence establishes a pattern of behavior, including acts likely to cause substantial harm, the burden of proof shall shift to the attorney to show that there is no reasonable likelihood that the harm will reoccur or continue.
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> (C) There is a reasonable probability that the State Bar will prevail on the merits of the underlying disciplinary matter.

(Rules Proc. of State Bar, rule 466(b)(2); *In the Matter of Mesce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 658, 661.) The State Bar may establish these three factors with declarations, transcripts, and requests for judicial notice. (Rules Proc. of State Bar, rule 465(d).) Of course, any declarations and deposition transcripts "must contain probative facts and show the source of the declarant's information, so that the Court can weigh the evidence. Declarations on information and belief are hearsay and generally insufficient by themselves to support a finding for involuntary enrollment; conclusions of law in a declaration are not evidence." (Rules Proc. of State Bar, rule 465(d).)

There are no default procedures in an involuntary inactive enrollment proceeding. (Rules Proc. of State Bar, rule 468(b).) Accordingly, even though respondent failed to file a response to the application for involuntary inactive enrollment, the State Bar must still present clear and

convincing evidence to establish the three factors set forth in section 6007, subdivision (c)(2)(A) through (C).

In its application, the State Bar asserts that "The scope of Respondent's misconduct and Respondent's pattern of behavior is [sic] more than sufficient to place . . . the State Bar Court on notice that he is likely to engage in future misconduct if allowed to remain an active member of the State Bar of California." The relevance of the assertion is, at best, suspect. At least in this court's view, whether the record is sufficient to put the court on "notice" of a fact is irrelevant to the issue of whether the State Bar has met its evidentiary burden of proof to establish that fact by clear and convincing evidence.

IV. FINDINGS OF FACT

As noted *ante* in footnote 1, respondent was admitted to the practice of law in December 1992. For the next 10 years (i.e., from December 1992 through December 2002), respondent was an active member of the State Bar. Thereafter, in January 2003, respondent was voluntarily enrolled as an inactive member of the State Bar of California. Respondent remained on voluntary inactive enrollment for the next four and one-half years (i.e., until mid-August 2007). In mid-August 2007, the Supreme Court placed respondent on actual suspension because he failed to pay his annual State Bar membership fees. Respondent remained on actual suspension under the Supreme Court's suspension order until he paid his membership fees in June 2008.

Sometime in 2008, respondent opened the Lucas Law Center, Inc. to primarily provide debt related services (including home loan modification services) and/or foreclosure avoidance services under an undated "Agreement Re Management Services" between respondent (i.e., The Law Offices of Paul Lucas) and Future Financial Services, L.L.C. (hereafter Future Financial).

In January 2009, a State Bar investigator sent respondent a letter asking respondent questions regarding his law practice and his relationship with Future Financial and its owner

Chris Betts. In early February 2009, respondent sent the investigator a letter in which he responded to those questions. In his February 2009 letter, respondent made the following statements, which are admissible in this proceeding as party admissions (Evid. Code, § 1220).

> I am continually on site at the Lucas Law Center, and am its managing attorney. Moreover, the Lucas Law Center is a professional corporation registered with the California Bar in compliance with all state laws. My firm offers foreclosure avoidance services of a wide variety to our clients. Each client signs an Attorney - Client Agreement to engage our services, and the law firm collects the agreed upon fees due. *All files are reviewed, accepted, or rejected by me, prior to execution of the Attorney - Client Agreement*. . . . In the event that we are unable to obtain a loan modification, the client may opt to pursue other alternatives, or end our representation. . . . The retainer is partially refundable if we do not obtain a loan modification, and the client opts not to pursue other alternatives. The amount of the refund is based on the amount of billable hours expended by the firm on the client's behalf. Exceptions to the refund policy are clearly stated as part of the refund policy in the retainer.
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> My firm engages Future Financial Services, owned and operated by Chris Betts, *as a management company*. Our business arrangement has been designed to conform to bar ethics guidelines, and to be consistent with the Los Angeles County Bar Association Professional Responsibility and Ethics Committee Opinion no. 488. I have attached our Management Agreement herewith, for your review. As you will see, Lucas Law Center is responsible for reviewing and approving all advertising, retains full control over all client files, and exercises independent legal judgment. Future Financial's responsibilities are limited to administrative and management services to assist in providing legal services such as: marketing, advertising and business development, employment and supervision of non-attorney administrative personnel, clerical services, such as mailing, copying, sorting, and filing/book-keeping and bill-paying services, as well as daily maintenance of customer services, all of which is done under the supervision and control of the Lucas Law Center.

(Exhibit 2 to Application for Involuntary Inactive Enrollment, italics added.)

Respondent's above quoted description of the refund policy in his form retainer agreement is clearly inaccurate. What is more, respondent's above quoted description of his business relationship with Future Financial Services, L.L.C. (hereafter Future Financial) is inaccurate, misleading, and all but belied by the management agreement between respondent and Future Financial, a copy of which respondent included with his letter to the State Bar

investigator. "An attorney has no obligation to produce incriminating evidence on his own initiative. However, he has an obligation to respond to the State Bar's inquires in a manner which is 'consistent with [the] truth' (see Bus. & Prof. Code, § 6068, subd. (d))." (*Franklin v. State Bar* (1986) 41 Cal.3d 700, 708-709.) In that regard, respondent's inaccurate and misleading description of his business relationship with Future Financial in the text of his letter is neither vitiated nor ameliorated by the fact that respondent included a copy of the management agreement in his letter.

The recitals and terms of the management agreement alone are strong evidence that respondent, inter alia, formed a partnership with a non-lawyer in willful violation of State Bar Rules of Professional Conduct, rule 1-310; aided Future Financial and its employees engage in the unauthorized practice of law in willful violation of State Bar Rules of Professional Conduct, rule 1-300; or both. For example, the recitals contain strong evidence of an intent to enter into an improper partnership with non-lawyers as opposed to an intent to enter into a legitimate contract for office services with an office management company. The recitals provide (1) that Future Financial has "experience in delivering debt related and/or foreclosure avoidance services, including marketing, *customer services* and *negotiation*"; (2) that respondent desires "to expand his practice and wishes to use [Future Financial's] *expertise* and assistance in facilitating the delivery of debt related and/or foreclosure avoidance *legal services*"; and (3) that Future Financial "deems that better service can be provided to debt-ridden consumers facing foreclosure if [Future Financial] provides services to a law firm delivering such services rather than directly to consumers." (Italics added.)

Respondent's recited duties in the agreement are also strong evidence of respondent's intent to form an improper partnership with non-lawyers. The recited duties provide that "LUCAS will establish a law firm to whom [Future Financial] can provide its management

services, which will include at least one California licensed attorney." In addition, the recited duties in the agreement provide that "LUCAS will be responsible for the delivery of legal services to clients, *but will delegate much of the actual delivery of said services to non-attorneys* who will either be employed by LUCAS, or employed by [Future Financial] but subcontracted to LUCAS. When dealing with creditors or clients, [Future Financial] employees will represent themselves as 'being with LUCAS' office" and/or 'employees of the law firm,' or similar job description. . . ." (Italics added.)

The agreement also requires that Future Financial provide, at its premises in Aliso Viejo, California, "an office for at least one attorney, which may be occupied by LUCAS or any other attorney LUCAS chooses."

Moreover, the agreement provides that Lucas will pay Future Financial "a marketing fee, to be based on the costs of services rendered, reasonable overhead, salaries and wages, *results, volume, and other relevant factors*." (Italics added.) This marketing fee, which is based, in part, on "results, volume, and other relevant factors," suggests that Future Financial is providing respondent and his law firm with more that just routine administrative and management support services.

What is more, the agreement provides that:

> LUCAS will exercise its independent judgment on behalf of any [Future Financial] client to whom it provides service. Neither [Future Financial] nor its Affiliates will have any control over what services LUCAS provides, nor the method chosen to provide such services. If, for example, LUCAS believes that it would be in a particular client's better interest to file a bankruptcy rather than participate in a debt settlement program, LUCAS will be free to make such recommendation to such client. If any [Future Financial] debt settlement client elects to use non-debt settlement legal services provided by LUCAS, then LUCAS and such client may enter into their own agreement, independent of any agreement between [Future Financial] or its Affiliate and the client.

In short, this foregoing provision makes clear that Future Financial is not just a management company as respondent represented in his letter to the State Bar investigator. The foregoing

provision also suggests that Future Financial is an ongoing entity that delivers "debt related and/or foreclosure avoidance services" directly to its own clients and to respondent's clients.

Because Future Financial has its own debt related and foreclosure avoidance clients, it gained benefits for itself when it contracted with respondent to relocate respondent's practice to Future Financial's Aliso Viejo premises. For example, by operating under the umbrella of the Lucas Law Center and by having its employees "represent themselves as 'being with LUCAS' office' and/or 'employees of the law firm,' " Future Financial was at least able to allege that it is exempt from California's regulation of foreclosure consultants (see, e.g., Civ. Code, § 2945.1, subd. (b)(1)) and California's limitations on rendering loan modification services (see, e.g., § 10133, subd. (a)(3)).

In the more than 16 months since respondent retuned to active status and he and Future Financial launched their joint enterprise, respondent's conduct has generated at least 45 complaints to the State Bar; 89 complaints to the Better Business Bureau (hereafter BBB); and a August 2009 federal district court preliminary injunction against respondent, the Lucas Law Center, Future Financial, and others in a Federal Trade Commission action. According to the State Bar, these 45 State Bar complaints, 89 BBB complaints, and the Federal Trade Commission action establish, by clear and convincing evidence, that respondent has caused or is causing substantial harm to respondent's clients or the public. (§ 6007, subd. (c)(2)(A).) With qualification, the court agrees.

Out of the 45 State Bar complaints, the State Bar selected 7 complaints to include in its application for involuntary inactive enrollment. Furthermore, the State Bar established the truth of these 7 selected complaints with the 8 declarations from the clients in those 7 complaints. The State Bar did not proffer any evidence to establish the truth of any of the remaining 38 (45 less 7) State Bar complaints.

With respect to the 89 BBB complaints, the State Bar's evidence (i.e., exhibit 11 to the application for involuntary inactive enrollment) strongly suggests that, in a very significant percentage of the 89 complaints, the Lucas Law Center did not promptly refund unearned fees to its clients. Exhibit 11 also strongly suggests that the Lucas Law Center stopped responding to BBB complaints in about March 2009. Exhibit 11 also establishes that many of the 89 BBB complaints contain complaints that are substantially identical to the complaints in the 7 State Bar complaints included in the application for involuntary inactive enrollment. Of course, exhibit 11 does not otherwise establish the truth of the 89 BBB complaints. (*People v. Hernandez* (1997) 55 Cal.App.4th 225, 240 [business records are admissible only to the extent that they are based on the personal knowledge of the recorder or of someone with a business duty to report to the recorder].)

As noted *ante*, the noticed orders, pleadings, and receiver's reports in the Federal Trade Commission action do not establish the truth of the findings or hearsay recited in them. Nor do they establish that the defendants in that federal action "operated as a common enterprise while engaging in deceptive acts and practices" or have been "unjustly enriched as a result of their unlawful acts or practices" as the State Bar contends in the application for involuntary inactive enrollment.

As the State Bar aptly notes in its application, the 45 State Bar complaints and the 89 BBB complaints repeatedly put respondent on notice of the inadequacies in his, his staff's, and Future Financial's legal and business practices. It is true that "an attorney cannot be held responsible for every event which takes place in a lawyer's office." (*In the Matter of Koehler* (Review Dept.1991) 1 Cal. State Bar Ct. Rptr. 615, 627.) Nonetheless, an attorney's "fiduciary duties to his clients . . . [requires] that he develop and maintain adequate management and accounting procedures for the proper operation of a law office. [Citations.]" (*In the Matter of*

Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 522.) In addition, respondent was required to train his staff with respect to these procedures and to employ adequate safeguards to insure that his staff actually followed the procedures. (*Vaughn v. State Bar* (1972) 6 Cal.3d 847, 857-858.) In short, respondent was required to "accept responsibility to supervise the work of his staff." (*Ibid*.)

The review department has found "that a single instance of negligence resulting from staff error did not amount to a disciplinable offense. [Citations.] However, where an attorney has been alerted to problems and does not adequately address them, then such gross neglect may be disciplinable as a failure to perform services competently" under Rules of Professional Conduct, rule 3-110(A). (*In the Matter of Hindin* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657, 682.) Moreover, repeated acts of mere negligence and omission involve moral turpitude in willful violation of section 6106 and "prove as great a lack of fitness to practice law as affirmative violations of duty." (*Bruns v. State Bar* (1941) 18 Cal.2d 667, 672.)

The record in this proceeding establishes, by clear and convincing evidence, that respondent has caused substantial harm to his clients and to the public; that respondent's clients and the public are likely to suffer greater injury from the denial of respondent's involuntary inactive enrollment than respondent is likely to suffer if it is granted; and that there is a reasonable probability that the State Bar will prevail on the merits in an underlying disciplinary proceeding with respect to the following alleged ethical violations.

Respondent, *through his staff, agents, and advertisements*, misrepresented the scope of his services to the clients and collected advanced fees from those clients under false pretenses all in willful violation of Business and Profession Code section 6106 in the Low, Meeks, Moslehi, Ramirez, and Torres client matters.

Respondent, *through his staff and agents*, in willful violation of Rules of Professional Conduct, rule 3-110(A) and section 6106, recklessly advised his clients to stop making their mortgage payments in the Low, Carillo, and Torres client matters.

Respondent and his staff failed to perform any legal services on behalf of his client in willful violation of Rules of Professional Conduct, rule 3-110(A) in the Gately client matter.

Respondent's staff and agents, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2), failed to promptly refund the unearned fees after respondent's employment was terminated in the Low and Meeks client matter and never refunded the unearned fees in the Moslehi, Ramirez, and Torres client matters. In fact, in the Torres client matter, the client was told only that his request for a refund had been forwarded to the Lucas Law Center's customer service manager for processing.

Respondent's staff and agents repeatedly failed to respond to respondent's clients' repeated inquiries about the status of their loan modifications in willful violation of section 6068, subdivision (m) in the Carillo, Meeks, Moslehi, Ramirez, and Torres client matters.

In short, if respondent actually operates the Lucas Law Center in the manner he described in his February 2009 letter to the State Bar investigator, respondent would have actual knowledge of most, if not all, of the foregoing statutory and rule violations and would be grossly negligent in failing to promptly and adequately address those violations so that they would not be repeated. On the other hand, if respondent does not operate the Lucas Law Center in the manner he described in his February 2009 letter to the State Bar investigator, respondent is dishonest and deliberately abdicated ethical responsibilities and turned his law practice over to non-lawyers (i.e., Future Financial). Under either scenario, respondent is personally culpable of each of the foregoing violations. It follows that respondent's conduct poses a substantial threat of harm to the interests of his clients and to the public. (§ 6007, subd. (c)(1).) The court believes that an

order of involuntary inactive enrollment will accomplish the underlying goal of protecting the public and respondent's clients during the pendency of a State Bar disciplinary proceeding against respondent. (*Conway v. State Bar* (1989) 47 Cal.3d 1107, 1114, 1117.) The court will, therefore, grant the State Bar's application.

ORDER

The court orders that the State Bar's September 21, 2009, application for involuntary inactive enrollment of respondent PAUL JEFFERY LUCAS is GRANTED. Accordingly, the court further orders that PAUL JEFFERY LUCAS be involuntarily enrolled as an inactive member of the State Bar of California under Business and Professions Code section 6007, subdivision (c) effective three calendar days after the service of this order by mail (Rules Proc. of State Bar, rule 466(b)).

The court further orders that its staff give appropriate notice of this order to PAUL JEFFERY LUCAS and the CLERK OF THE SUPREME COURT OF CALIFORNIA in accordance with Business and Professions Code section 6081.

The court further orders that the State Bar must initiate disciplinary proceedings on an expedited basis in accordance with Business and Professions Code section 6007, subdivision (c)(3) and Rules of Procedure of the State Bar, rule 480, et seq.

The court further orders that, within 30 calendar days after the effective date of his involuntary inactive enrollment, PAUL JEFFERY LUCAS must:

1. Notify all clients being represented in pending matters and any co-counsel of his involuntary inactive enrollment and his consequent immediate disqualification to act as an attorney and, in the absence of co-counsel, notify the clients to seek legal advice elsewhere, calling attention to the urgency in seeking the substitution of another attorney or attorneys in his place;

2. Deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to the urgency of obtaining the papers or other property;

3. Refund any part of any fees paid in advance that have not been earned; and

4. Notify opposing counsel in pending matters, or in the absence of counsel, the adverse parties, of his involuntary inactive enrollment, and file a copy of the notice with the court, agency, or tribunal before which the matter is pending for inclusion in the respective file or files.

PAUL JEFFERY LUCAS must give all of the foregoing notices either by registered mail or by certified mail, return receipt requested. In addition, each notice must contain Paul Jeffery Lucas's current State Bar membership records address, where communications may be thereafter directed to him.

The court further orders that, within 40 calendar days after the effective date of his involuntary inactive enrollment, PAUL JEFFERY LUCAS must file, with the Clerk of the State Bar Court, an affidavit stating whether he has fully complied with all of the requirements in this order. That affidavit must also contain Paul Jeffery Lucas's current State Bar membership records address, where communications may be thereafter directed to him.

Finally, the court orders that PAUL JEFFERY LUCAS must maintain reliable records of the steps he takes to comply with the requirements in this order so that he can establish his compliance with this order should he hereafter file a petition to be transferred back to active enrollment under Rules of Procedure of the State Bar, rule 490, et seq.

Dated: November 4, 2009.

LUCY ARMENDARIZ
Judge of the State Bar Court