

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 11-AE-13021-RAH
)	
PAUL FREDERICK OPEL,)	
)	ORDER GRANTING MOTION FOR
Member No. 101874,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	
_____)	

I. Introduction

On May 13, 2011, the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program, Joel Mark, filed a motion seeking the involuntary inactive enrollment of Award Debtor Paul Frederick Opel due to his failure to pay a fee arbitration award. (Bus. & Prof. Code, § 6203, subd. (d).)¹ The motion was properly served at Award Debtor's official membership records address, by certified mail, return receipt requested, and by regular mail. (§ 6002.1, subd. (c); Rules Proc. of State Bar, rule 5.361(B).)²

Award Debtor did not file a response to the motion or request a hearing. (Rules 5.362 and 5.364.)

The court ordered the matter submitted for decision without a hearing on June 24, 2011.

¹ References to sections are to the provisions of the Business and Professions Code.

² References to rules are to the Rules of Procedure of the State Bar.

II. Findings of Fact and Conclusions of Law

Award Debtor was admitted to the practice of law in California on December 1, 1981, and has been a member of the State Bar at all times since.

A. Facts

On July 29, 2009, the Los Angeles County Bar Association served a nonbinding fee arbitration award in *In the Matter of the Arbitration Between Claudio E. Flores and Ana I. De La Torre, Petitioners, and Paul Opel, Respondent*, directing Award Debtor to refund to his former clients, Claudio E. Flores and Ana I. De La Torre, \$3,200 in unearned attorney fees and costs.

The award became binding and final by operation of law on August 28, 2009, when the time for Award Debtor to move for trial after arbitration expired. (§ 6203, subd. (b).)

On September 16, 2009, De La Torre sent a letter to Award Debtor demanding payment of the award. But Award Debtor did not reply to the letter or pay any portion of the award to her or Flores.

On November 2, 2009, the Office of Mandatory Fee Arbitration (State Bar) received De La Torre's request for enforcement of the arbitration award. (§ 6203, subd. (d)(5).)

On November 10, 2009, the State Bar served the enforcement request on Award Debtor by certified mail and regular mail at his official membership records address, along with a letter notifying him of the potential consequences for failing to comply with the award or to respond to the enforcement request by December 10, 2009. Award Debtor did not respond to the enforcement request.

By letter dated December 15, 2009, the State Bar confirmed Award Debtor's failure to reply and advised him that the matter was being forwarded to the Presiding Arbitrator for the issuance of an order imposing administrative penalties. (§ 6203, subd. (d).) Award Debtor did not respond to the letter.

On January 26, 2010, the Presiding Arbitrator issued an order imposing administrative penalties against Award Debtor in the amount of \$800 for his failure to comply with the award or respond to the enforcement request within the required time period. The order stayed the imposition of the penalty for 14 days to allow him a final opportunity to comply with the award. Copies of the order were served on Award Debtor at his official membership records address by certified and regular mail. The mailings were not returned as undeliverable. Since Award Debtor did not respond, the penalty of \$800 was imposed and added to his State Bar membership dues for the 2011 calendar year.

On November 9, 2010, Award Debtor informed the State Bar that he would offer to pay the entire arbitration award by December 15, 2010. The State Bar told Award Debtor on November 15 that De La Torre accepted his offer, plus interest. But thereafter, neither the State Bar nor De La Torre received any further communication or payment from him. On January 10, 2011, the State Bar again wrote to Award Debtor, advising him of its intent to proceed with a motion to enroll him involuntarily inactive since he had not paid the arbitration award to his clients.

To date, Award Debtor has not paid the award nor demonstrated that he has set aside the award.

B. Legal Conclusions

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 proposed a payment plan acceptable to the client or the State Bar. (§ 6203, subd. (d)(2)(A); Rule 5.365(A).)

The court also finds that Award Debtor has not met the 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. (§ 6203, subd. (d)(2)(B); Rule 5.365 (B).)

III. Order of Involuntary Inactive Enrollment

ACCORDINGLY, IT IS ORDERED that the State Bar's motion for involuntary inactive enrollment is **GRANTED** and that Award Debtor **Paul Frederick Opel** be enrolled as an inactive member of the State Bar of California, effective five days from the date of service of this order. (§ 6203, subd. (d)(1); Rule 5.368(B)(1).)

IT IS FURTHER ORDERED that Award Debtor must remain involuntarily enrolled as an inactive member of the State Bar until:

1. Award Debtor has paid the arbitration award to Claudio E. Flores and/or Ana I. De La Torre in the amount of \$3,200 plus interest at the rate of 10% per annum from July 29, 2009, the date of service of the award;
2. Award Debtor has paid the administrative penalty of \$800 assessed by the Presiding Arbitrator's order filed January 26, 2010; and
3. The court grants a motion to terminate Award Debtor's inactive enrollment (Rule 5.370).

Reasonable costs are awarded to the State Bar upon the Presiding Arbitrator's submission of a bill of costs. (§ 6203, subd. (d)(3); Rule 5.368(B)(2).)

IT IS SO ORDERED.

Dated: July ____, 2011

RICHARD A. HONN
Judge of the State Bar Court