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OCT 23 2012

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STATE BAR COURT
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LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

PUBLIC MATTER

In the Matter of)	Case No. 12-AE-15674-DFM
)	
ROBERT OREN HARKER,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 33437,)	ENROLLMENT
)	
A Member of the State Bar.)	
_____)	

INTRODUCTION

This matter is before the court on motion filed by the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program, Joel Mark, seeking the involuntary inactive enrollment of award debtor **Robert Oren Harker** (Award Debtor) pursuant to Business and Professions Code section 6203, subdivision (d),¹ and rule 5.361 of the Rules of Procedure of the State Bar² 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. Accordingly, the motion is granted and Award Debtor

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

² Unless otherwise indicated, all further references to rule(s) refer to provisions of the Rules of Procedure of the State Bar of California.

is enrolled as an inactive member of the State Bar of California, effective five days from the date of service of this order. (Rule 5.368.)

SIGNIFICANT PROCEDURAL HISTORY

On August 13, 2012, the Presiding Arbitrator filed a motion seeking the involuntary inactive enrollment of Award Debtor. (§ 6203, subd. (d); Rule 5.361 et seq.) A copy of said motion was properly served on Award Debtor at his official membership records address on August 10, 2012, by certified mail, return receipt requested, and by regular mail.³ Award Debtor did not file a response to the motion or request a hearing.

The court ordered the matter submitted for decision on September 28, 2012.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jurisdiction

Award Debtor was admitted to the practice of law in California on January 10, 1963, and has been a member of the State Bar at all times since.

Facts

The Glendale Bar Association arbitrated a fee dispute between Award Debtor and client Dennis J. Meredith. On December 2, 2010, the Glendale Bar Association served Award Debtor with a fee arbitration award, which awarded Meredith a refund of \$1,000 of unearned attorney fees and return of the \$408.92 arbitration filing fee, for a total award of \$1,408.92.

On January 12, 2011, Meredith's attorney, David Philipson, 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 him or Meredith.

On May 2, 2011, the State Bar Mandatory Fee Arbitration Program (State Bar) received Meredith's request for enforcement of the arbitration award.

³ The motion was served on Award Debtor at his official address in Pasadena on August 10, 2012. His new address in La Canada Flintridge became effective August 13, 2012.

On May 3, 2011, 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 June 2, 2011. Award Debtor did not respond to the enforcement request.

By letter dated June 7, 2011, 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. Award Debtor did not respond to the letter.

On July 13, 2011, the Presiding Arbitrator issued an order imposing administrative penalties against Award Debtor in the amount of \$500 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 State Bar received a return receipt. Since Award Debtor did not respond, the penalty of \$500 was imposed and added to his State Bar membership dues for the 2012 calendar year.

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

Conclusions (§ 6203, subd. (d)(2); Rules 5.365-5.367)

The court finds that the Presiding Arbitrator has met the burden of demonstrating by clear and convincing evidence that the \$1,408.92 arbitration award had become binding and final by operation of law and 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); 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).)

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 **Robert Oren Harker** 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 Robert Oren Harker must remain involuntarily enrolled as an inactive member of the State Bar until:

1. Robert Oren Harker has paid the arbitration award to Dennis J. Meredith in the amount of \$1,408.92 plus interest at the rate of 10% per annum from December 2, 2010, the date of service of the award;
2. Robert Oren Harker has paid the administrative penalty of \$500 assessed by the Presiding Arbitrator's order filed July 13, 2011, and the costs subsequently ordered as a result of this proceeding; and
3. The court grants a motion to terminate Robert Oren Harker's inactive enrollment (Rule 5.370).

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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: October 23, 2012


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. 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 Los Angeles, on October 23, 2012, 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:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ROBERT OREN HARKER
4319 HAYMAN AVE
LA CANADA FLT, CA 91011**

**JOEL MARK
NORDMAN CORMANY et al
P.O. BOX 9100
OXNARD, CA 93031-9100**

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

JOEL MARK, Presiding Arbitrator, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 23, 2012.



Tammy Cleaver
Case Administrator
State Bar Court