

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 13-AE-11352-RAP
)	
GEOFFREY CARL MORRISON,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 172059,)	ENROLLMENT [Bus. & Prof. Code, 6203,
)	subd. (d); Rules Proc. of State Bar, rule
<u>A Member of the State Bar.</u>)	5.360 et seq.]

On March 13, 2013, the Mandatory Fee Arbitration Program of the State Bar of California (State Bar),¹ appearing through Kenneth E. Bacon, its Presiding Arbitrator, filed a motion seeking the involuntary inactive enrollment of Award Debtor Geoffrey Carl Morrison (Award Debtor) pursuant to Business and Professions Code section 6203, subdivision (d) and rule 5.361 of the Rules of Procedure of the State Bar (Rules of Procedure), due to his failure to pay a fee arbitration award which was later converted into a judgment (motion). A copy of the motion was properly served on respondent at his official membership records address (official address) on March 12, 2013, by certified mail, return receipt requested, and by regular mail.²

¹ This program is administered by the State Bar of California’s Office of Mandatory Fee Arbitration.

² Exhibit 3, the certified copy of the Award Debtor’s address history as of March 6, 2013, attached to the motion, is not competent evidence to establish that documents served after March 6, 2013, were properly served on the Award Debtor. The court therefore takes judicial notice of the State Bar’s official membership records pursuant to Evidence Code section 452, subdivision (h). These records indicate that from March 8, 2012 through April 17, 2013, Award Debtor’s official address was 2515 Camino Del Rio South, Ste. 215, San Diego, California 92108.

A copy of a Notice of Assignment and a copy of the Judicial Disclosure and Order of Disclosure were properly served on Award Debtor at his official address on March 14, 2013, and were returned to the State Bar Court by the U.S. Postal Service (Postal Service) as undeliverable as addressed and unable to be forwarded.

Award Debtor did not file a response to the motion or request a hearing. (Rules Proc. of State Bar, rules 5.362 and 5.364.)

This matter was submitted for decision on April 8, 2013. A copy of the Submission Order was properly served on Award Debtor at his official address on April 8, 2013, and was not returned to the State Bar Court by the Postal Service as undeliverable or for any other reason.

Jurisdiction

Award Debtor was admitted to the practice of law in California on December 1, 1994.

Facts

On March 5, 2011, Mark Nickelson (Nickelson) requested arbitration of a fee dispute with Award Debtor.

On August 5, 2011, the San Diego County Bar Association Fee Arbitration Committee served a copy of its Findings and Award, which awarded Nickelson a refund of \$3,762.36, including \$2,900 in previously paid but unearned attorney's fees, the \$151.25 arbitration filing fee, and \$711.11 in pre-award interest. Although the award was originally non-binding, the award become binding under Business and Professions Code section 6203, subdivision(b), as neither party filed a request for trial after arbitration within 30 days after service of the arbitration award.

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When Nickelson did not receive payment of the award, on December 6, 2011, he sent Award Debtor a letter demanding payment of the award. Enclosed with the letter was a copy of the Findings and Award. Award Debtor, however, did not respond to this letter.³

Having received no payment of the award or any other communication from Award Debtor, Nickelson 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 on February 13, 2012. The State Bar Mandatory Fee Arbitration Program filed the Client's Enforcement Request on February 13, 2012.

Under cover letter dated February 14, 2012, the State Bar served Award Debtor with, among other things, a copy of the Client's Enforcement Request and the arbitration award. The letter set forth that the arbitration award was now final and binding. The letter advised the Award Debtor that under rule 45.1 of the Rules of Procedure for Fee Arbitrations and the Enforcement of Awards by the State Bar of California, he had 30 days from the February 14, 2012 service of the request for enforcement to: (1) provide satisfactory proof to the State Bar of his payment of the arbitration award and interest; (2) agree to a payment plan that is satisfactory to Nickelson or the State Bar; or (3) provide reasons, under Business and Professions Code section 6203, subdivision (d)(2)(B), why he should not be required to comply with the arbitration award. The Award Debtor was advised that his response was due to the State Bar on or before March 15, 2012. The letter set forth that Award Debtor's failure to comply with a final and binding fee arbitration award can result in the imposition of administrative penalties. The letter also set forth that if no response was received on or before March 15, 2012, the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program could file a motion in the State Bar Court seeking to have Award Debtor involuntarily enrolled as an inactive member of the

³ The court notes, however, that the letter was not addressed to respondent's official address on December 6, 2011.

State Bar until such time as the Award Debtor pays the arbitration award and any assessed penalties. The Client's Enforcement Request and other items, including the arbitration award, were served on Award Debtor at his official address by both regular and certified mail, return receipt requested, on February 14, 2012. Both copies of the Client's Enforcement Request were returned to the State Bar as undeliverable.

When the State Bar did not receive a reply to the February 14, 2012 letter, it sent Award Debtor a warning letter on March 16, 2012. The letter set forth that Award Debtor's response to a request for enforcement of an arbitration award was due on March 15, 2012, but as of March 16, 2012, the State Bar had not received any communication from Award Debtor. The letter also notified Award Debtor that the matter was being forwarded to the Presiding Arbitrator for an order imposing administrative penalties against the Award Debtor. The letter also advised the Award Debtor that the Presiding Arbitrator might proceed by moving the State Bar Court for an order placing the Award Debtor on involuntary inactive status, and that he would then not be entitled to practice law in California until he complied with the arbitration award in full and paid any penalties imposed and costs awarded.

Award Debtor's failure to respond to the March 16, 2012 letter prompted the Presiding Arbitrator⁴ to file an Order re Administrative Penalties against Award Debtor on April 24, 2012. The order imposed an administrative penalty of \$752.47 against Award Debtor. The imposition of the administrative penalty was stayed for 14 days from April 24, 2012. The order set forth that the penalty would not be imposed on such date if the State Bar received evidence on or before that date that Award Debtor had fully complied with the award. On April 24, 2012, the State Bar served a copy of the Order re Administrative Penalties on Award Debtor by regular mail and certified mail, return receipt requested, to his official address. The copy sent by regular

⁴ The Presiding Arbitrator at that time was Joel Mark.

mail was not returned; however, the copy of the order served by certified mail was returned to the State Bar as unclaimed by the Award Debtor. Award Debtor did not contact the State Bar or pay the arbitration award within 14 days.

When Nickelson still did not get payment of the arbitration award from Award Debtor, he filed a request with the San Diego Superior Court to confirm the arbitration award and convert it into a judgment.

On November 30, 2012, the San Diego County Superior Court confirmed the award and entered judgment in favor of Nickelson and against Award Debtor in the amount of \$4,193.00 in principal and \$370.08 in costs for a total judgment of \$4,563.08. Interest accrues on the principal amount of a money judgment remaining unsatisfied at the rate of 10 percent per year. (Code Civ. Proc., § 685.010, subd. (a).) Interest accrues from the date of entry of judgment. (Code Civ. Proc., § 685.020, subd. (a).) A copy of the Notice of Entry of Judgment was mailed to respondent by first-class mail, postage prepaid, on December 3, 2012, addressed to respondent at his official address.

As of March 5, 2013, Award Debtor has not paid any portion of the judgment and he has not contacted either Nickelson or the State Bar.

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 judgment and has not proposed a payment plan acceptable to the client or to the State Bar. (Rules Proc. of State Bar, rule 5.365(A)(1); Bus. & Prof. Code, § 6203, subd. (d)(2)(A) & (d)(2)(B).)

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. (Rules Proc. of State Bar, rule 5.365(B); Bus. & Prof. Code, § 6203, subd. (d)(2)(B).)

ORDER

IT IS ORDERED that Award Debtor Geoffrey Carl Morrison 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 Proc. of State Bar, 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) he has paid the judgment awarded to Mark Nickelson in the amount of \$4,193 plus interest thereon at the rate of 10% per annum from November 30, 2012 (the date judgment was entered), and costs of \$370.08 incurred in the Superior Court proceeding; (2) he has paid the administrative penalty of \$752.47 assessed by the Presiding Arbitrator's order filed April 24, 2012, and reasonable costs, if any; and (3) the court grants a motion to terminate the inactive enrollment pursuant to rule 5.370 of the Rules of Procedure of the State Bar of California.

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 5.368(B)(2).)

Dated: April 23, 2013

RICHARD A. PLATEL
Judge of the State Bar Court