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**STATE BAR COURT
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LOS ANGELES**

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 16-AE-16983-DFM
)	
ART HOOMIRATANA,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 247253.)	ENROLLMENT [Bus. & Prof. Code,
)	§ 6203, subd. (d); Rules Proc. of State
		Bar, rule 5.360 et seq.]

On October 19, 2016, the Mandatory Fee Arbitration Program of the State Bar of California (State Bar), appearing through Kenneth E. Bacon, its Presiding Arbitrator, filed a motion seeking the involuntary inactive enrollment of award debtor Art Hoomiratana (Award Debtor) pursuant to Business and Professions Code section 6203, subdivision (d), and rules 5.360 et seq. of the Rules of Procedure of the State Bar (Rules of Procedure),¹ due to his failure to pay a judgment obtained after service of a mandatory fee arbitration award. A copy of the motion was properly served on Award Debtor at his official membership records address (official address) on October 18, 2016, by certified mail, return receipt requested, and by U. S. mail, postage prepaid.²

¹ Although the body of the motion cited to rule 5.361 of the Rules of Procedure, it is clear that the motion is pursuant to rules 5.360 et seq.

² Exhibit 3, the certified copy of Award Debtor's address history as of October 17, 2016, is not adequate evidence to establish that documents served after October 17, 2016, were properly served on Award Debtor. The court therefore takes judicial notice of the State Bar's official membership records pursuant to Evidence Code section 452, subdivision (h), which reflect that the motion was properly served on Award Debtor.

A copy of a Notice of Assignment was properly served on Award Debtor as his official address on October 20, 2016, and was not returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

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

This matter was submitted for decision on November 3, 2016.

Jurisdiction

Award Debtor was admitted to the practice of law in California on December 5, 2006.

Facts

On September 30, 2013, Madeline Brigante (Brigante) requested arbitration of a fee dispute with Award Debtor.

On July 21, 2014, the Los Angeles County Bar Association served on Award Debtor and Brigante a copy of its Statement of Decision and Award,³ which awarded Brigante \$10,600, including \$10,000 in previously paid but unearned attorney's fees and the \$600 arbitration filing fee, plus 10% interest per year on \$10,000 from August 6, 2012, until paid, and 10% interest per year on \$600 from the 30th day after service of the award until paid. The award was not binding on the parties when issued.

Thereafter, Award Debtor filed a civil action on August 12, 2014, in Los Angeles County Superior Court, rejecting the award, requesting a trial, and seeking declaratory relief.

On September 11, 2014, Brigante filed a petition with the Los Angeles County Superior Court, seeking an order confirming the arbitration award.

Award Debtor's request for a trial de novo was denied. The court found that Award Debtor willfully failed to appear at the arbitration hearing and, therefore, concluded that Award

³ Award Debtor and Brigante were also served with a copy of Notice of Your Rights After Arbitration.

Debtor was not entitled to a trial de novo. In turn, the court granted Brigante's petition to confirm the arbitration award. As a result, on April 14, 2015, the superior court entered judgment on behalf of Brigante in the amount of \$13,402.⁴

When Brigante did not receive payment of the judgment from Award Debtor, she sent him a letter on April 23, 2015, demanding that he pay the judgment. Award Debtor did not respond to this letter. Brigante then submitted to the State Bar a Client's Request for Enforcement of an Arbitration Award (Client's Enforcement Request), received by the State Bar on August 18, 2015.

Under cover of a letter dated August 20, 2015, the State Bar served Award Debtor with, among other things, a copy of the Client's Enforcement Request and the arbitration award. This letter set forth that Brigante had requested assistance from the State Bar's Office of Mandatory Fee Arbitration with the enforcement of a fee arbitration award; that the arbitrator in that matter awarded Brigante \$10,600; and that Brigante obtained a judgment on April 14, 2015, confirming that award in the amount of \$13,402. The letter advised Award Debtor that he had 30 days from August 20, 2015, to: (1) provide satisfactory proof to the State Bar's Office of Mandatory Fee Arbitration (State Bar) of his payment of the arbitration award; (2) agree to a payment plan that is satisfactory to the State Bar or Brigante; 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. Award Debtor was then advised that his response was due to the State Bar on or before September 19, 2015. The letter also made clear that Award Debtor's failure to comply with a final and binding fee arbitration award could result in the imposition of administrative penalties and that, if no response was received on or before September 19, 2015, the Presiding Arbitrator could file a motion in the State Bar Court, seeking to have Award Debtor involuntarily

⁴ This figure includes previously accrued pre-judgment interest.

enrolled as an inactive member of the State Bar until such time as 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 U.S. mail, postage fully prepaid, and by certified mail, return receipt requested, on August 20, 2015.

When the State Bar did not receive any communication from Award Debtor, the State Bar sent a letter to Award Debtor on October 21, 2015. The letter set forth that Award Debtor's response to the request for enforcement of the Brigante arbitration award was due on September 19, 2015, but that, as of October 21, 2015, 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 Award Debtor. The letter also advised Award Debtor that the Presiding Arbitrator might proceed by moving the State Bar Court for an order placing 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 costs awarded and penalties imposed.

After Award Debtor did not reply to the State Bar's October 21, 2015 letter, the Presiding Arbitrator filed an Order re Administrative Penalties against Award Debtor on November 10, 2015. The order imposed against Award Debtor an administrative penalty of \$1,340. The imposition of the administrative penalty was stayed for 14 days from November 10, 2015. 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 November 10, 2015, the State Bar served a copy of the Order re Administrative Penalties on Award Debtor by U.S. mail, postage fully prepaid, and by certified mail, return receipt requested, to his official address. Award Debtor did not thereafter contact the State Bar or pay the arbitration award within 14 days, and the penalty was added to his State Bar membership dues.

As of October 18, 2016, Award Debtor has not communicated with the State Bar or Brigante, and no portion of the judgment or administrative penalty has been paid.

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 judgment confirming the arbitration award and that he has not proposed any 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 his burden of demonstrating by clear and convincing evidence that he is not personally responsible for making or ensuring payment of the judgment; 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).)

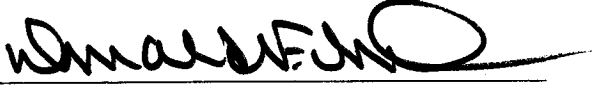
ORDER

IT IS ORDERED that Award Debtor Art Hoomiratana 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 Madeline Brigante in the amount of \$13,402, plus all applicable interest accruing after April 14, 2015, the date the judgment was issued; (2) he has paid reasonable costs, if any; (3) he pays the administrative penalty; and (4) 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: November 29, 2016


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 November 29, 2016, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION FOR INVOLUNTARY INACTIVE ENROLLMENT
[Bus. & Prof. Code, § 6203, subd. (d); Rules Proc. of State Bar, rule 5.360 et seq.]

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:

ART HOOMIRATANA
LAW OFFICES OF ART HOOMIRATANA
750 E GREEN ST STE 333
PASADENA, CA 91101

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

KENNETH BACON, Fee Arbitration, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 29, 2016.



Mazie Yip
Case Administrator
State Bar Court