



THE STATE BAR  
OF CALIFORNIA

OFFICE OF THE CHIEF TRIAL COUNSEL  
ENFORCEMENT

Scott J. Drexel, Chief Trial Counsel

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

TELEPHONE: (213) 765-1000

TDD: (213) 765-1566

FAX: (213) 765-1442

<http://www.calbar.ca.gov>

October 2, 2007

Les Greenberg, Esq.  
10732 Farragut Drive  
Culver City, California 90230

Re: 07-0-11360 and 11361

Dear Mr. Greenberg:

Mr. Von Freymann gave me the file after your response to his letter of August 2, 2007 for my evaluation. After review of the file and research of my own, and consulting with both the Deputy Chief and Chief Trial Counsel, I concluded with you that an inactive attorney cannot act as an arbitrator for the NASD and that the State Bar's rules and regulations are not pre-empted.

I conveyed that opinion to both responding members against whom you complained. In that this is an area of some debate (I reviewed some Board of Governors material as well) and continued controversy, I also gave them a choice, either to cease acting as arbitrators for the NASD or become active. One chose to pay the fees and return to active status, and the other chose to retire from work as an NASD arbitrator. I am therefore closing our file.

I also wrote to the NASD and requested either a list of those attorneys who are inactive in California acting as arbitrators or to make it clear in whatever documentation they feel is appropriate what are the jurisdictional requirements. You referred to Judith Hale Norris in correspondence. She is not an attorney in California and if she is an attorney anywhere else, her jurisdiction will have to control. As to what she advises the NASD to do, we do not have control over that entity or its rules. We can only deal with specific California inactive attorneys.

Although I am hoping that this resolution addresses your complaint, in case it does not, should you have new evidence that was not reasonably available and/or not presented prior to the closing of your complaint or if you believe that your complaint was closed based on a legal error or an abuse of the Chief Trial Counsel's prosecutorial discretion, you may request a review of this determination by the Audit and Review Unit. A request for review must be in writing and sent to the following address within 60 days of the date of this letter:

Audit and Review  
Office of the Chief Trial Counsel  
1149 South Hill Street  
Los Angeles, CA 90015-2299

Thank you for presenting such an interesting issue.

Very truly yours,

  
Djinna M. Gochis  
Assistant Chief Trial Counsel

DG/