

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of)	Case No. 06-AE-13104-JMR
RANDALL D. MASON,)	DECISION INCLUDING ORDER OF
Member No. 212858,)	INVOLUNTARY INACTIVE
A Member of the State Bar.)	ENROLLMENT

I. Introduction

On June 27, 2006, the Presiding Arbitrator of the State Bar’s Mandatory Fee Arbitration Program (Presiding Arbitrator) filed a motion seeking the involuntary enrollment of Award Debtor **RANDALL D. MASON**, pursuant to Business and Professions Code section 6203, subdivision (d)¹ due to his failure to pay a fee arbitration award. The motion was properly served on June 27, 2006, at Award Debtor’s official membership records address, by certified mail, return receipt requested, and by regular mail. (Section 6002.1, subd. (c); Rules Proc. of State Bar, rule 701(b).)

Award Debtor did not file a response to the motion or request a hearing. (Rules Proc. of State Bar, rules 702(a) and (b) and 704.)

The court ordered that the matter be submitted for decision without a hearing on July 19, 2006.

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Award Debtor was admitted to the practice of law in California on May 6, 2001, and has been a member of the State Bar at all times since.

¹References to “section” are to the provisions of the Business and Professions Code unless otherwise stated.

B. Facts

On July 29, 2005, the Sacramento County Bar Association served a nonbinding fee arbitration award in *Hoyer v. Mason, Attorney*, directing Award Debtor to refund to his former client, Dellena Hoyer (Hoyer), \$1,575 forthwith.

The award became binding and final by operation of law on August 28, 2005, when the time for the Award Debtor to move for trial after arbitration pursuant to section 6204 expired.

On September 2, 2005, Hoyer sent a letter to Award Debtor demanding payment of the award. However, Award Debtor did not reply to the letter or pay any portion of the award to Hoyer.

On January 5, 2006, the Office of Mandatory Fee Arbitration (State Bar) received Hoyer's request for enforcement of the arbitration award pursuant to section 6203, subdivision (d)(5). On January 6, 2006, 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 February 6, 2006. The certified mailing was returned by the United States Postal Service (USPS) as unclaimed. The regular mail was not returned as undeliverable. Award Debtor did not respond to the enforcement request.

By letter dated February 10, 2006, the State Bar confirmed Award Debtor's failure to reply and advised him that the matter was being forwarded to the Presiding Arbitrator for issuance of an order imposing administrative penalties in the amount of \$1,000 under section 6203, subdivision (d). Award Debtor did not respond to the letter.

On March 22, 2006, the Presiding Arbitrator served an order imposing administrative penalties against Award Debtor in the amount of \$1,000 for his failure to comply with the award or respond to the enforcement request within the required time period. The order stayed 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 mail and regular mail. The USPS returned the certified mailing as unclaimed. The mailing sent by regular mail was not returned as undeliverable. Since Award Debtor did not respond, the penalty of \$1,000 was imposed and added to his State Bar membership dues for the 2007 calendar year.

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

C. 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 to the State Bar. (Section 6203, subd. (d)(2)(A); Rules Proc. of State Bar, rule 705(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. (Section 6203, subd. (d)(2)(B); Rules Proc. of State Bar, rule 705(b).)

III. Order

ACCORDINGLY, IT IS ORDERED that Award Debtor **RANDALL D. MASON** be enrolled as an inactive member of the State Bar of California pursuant to section 6203, subdivision (d)(1), effective five days from the date this order is filed. (Rules Proc. of State Bar, rule 708(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 arbitration award to Dellena Hoyer in the amount of \$1,575 plus interest at the rate of 10% per annum from July 29, 2005; (2) he has paid the administrative penalties, totaling \$1,000, assessed by the Presiding Arbitrator's order filed on March 22, 2006; and (3) the court grants a motion to terminate his inactive enrollment pursuant to rule 710 of the Rules of Procedure of the State Bar.

Reasonable costs are awarded to the State Bar upon the Presiding Arbitrator's submission of a bill of costs. (Section 6203, subd.(d)(3); Rules Proc. of State Bar, rule 708(b)(2).)

Dated: August 17, 2006

JOANN M. REMKE
Judge of the State Bar Court

