

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. 07-AE-15012-RAP
)	
TRACY PETERLIN,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 187604,)	ENROLLMENT [Bus. & Prof. Code,
)	§ 6203, subd. (d); Rules Proc. of State Bar,
<u>A Member of the State Bar.</u>)	rule 700, et seq.]

I. INTRODUCTION

This matter is before the court on motion filed by the Presiding Arbitrator of the State Bar’s Mandatory Fee Arbitration Program, by and through his designee, Jill A. Sperber, Director of the Mandatory Fee Arbitration Program and Special Deputy Trial Counsel, seeking the involuntary inactive enrollment of Award Debtor **TRACY PETERLIN** (“Award Debtor”), pursuant to Business and Professions Code section 6203, subdivision (d), and rule 701 of the Rules of Procedure of the State Bar of California (“Rules of Procedure”) due to her 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.

II. SIGNIFICANT PROCEDURAL HISTORY

On December 27, 2007, the Presiding Arbitrator, by and through his designee, Jill A. Sperber, filed a motion seeking the involuntary inactive enrollment of Award Debtor. (Bus. & Prof. Code, section 6203, subd. (d), Rules of Procedure, rule 700, et seq.) A copy of the motion was properly served at Award Debtor’s official membership records address on December 26,

2007, by certified mail, return receipt requested, and by regular mail.¹ Award Debtor failed to respond to the State Bar's motion or request a hearing (Rules of Procedure, rules 702(a), (b) and 704).

On January 16, 2008, the court filed a Notice of Assignment. A copy of said notice was properly served on Award Debtor by first-class mail, postage fully prepaid, on January 16, 2008, at her official membership records address. The copy of said notice was not returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

This matter was submitted for decision on January 18, 2008. A copy of the Submission Order was properly served on Award Debtor at her official address on January 22, 2008, and was not returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdiction

Award Debtor was admitted to the practice of law in California on February 6, 1997, and has been a member of the State Bar at all times since.

B. Facts

In January 2006, Rhonda Gipson ("Gibson") requested mandatory fee arbitration with the Riverside County Bar Association to resolve a fee dispute with Award Debtor. On April 3, 2007, the Riverside County Bar served a non-binding arbitration award on the parties. It awarded Song a refund in the amount of \$435 in attorney's fees and costs.

Neither party sought a trial de novo with the court and the award became binding by operation of law on May 3, 2007, 30 days from the date of service of the award. On May 4,

¹ Exhibit 3, the certified copy of Award Debtor's address history as of December 26, 2007, which is attached to the State Bar's motion, is not competent evidence to establish that documents served after November 6, 2007, were properly served upon 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 as of February 13, 2007, Award Debtor's official address has been, and remains, 895 Dove St., 3FL, Newport Beach, CA 92660.

2007, Gibson sent a letter to Award Debtor demanding payment of the award. Award Debtor did not respond. On July 18, 2007, Gibson 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 ("State Bar") pursuant to Business and Professions Code section 6203, subdivision (d).

On July 19, 2007, the State Bar served the Client's Enforcement Request on Award Debtor by regular and certified mail at her official State Bar membership address pursuant to rule 51.2 of the Rules of Procedure for Fee Arbitrations and the Enforcement of Awards by the State Bar of California ("Fee Arbitration Rules"). Included in this mailing was a cover letter from the State Bar advising Award Debtor of the potential consequences for: (1) failing to comply with the arbitration award and (2) failing to respond to the Client's Enforcement Request by August 20, 2007. The Postal Service return receipt was signed and postmarked July 23, 2007. The Postal Service did not return the enforcement request sent by regular mail as undeliverable. Award Debtor did not respond to the Client's Enforcement Request.

On August 21, 2007, the State Bar sent another letter to Award Debtor at her official State Bar membership records address. This letter confirmed Award Debtor's failure to reply to the Client's Enforcement Request and advised her that the matter was being forwarded to the State Bar Presiding Arbitrator for the issuance of an order imposing administrative penalties against her. Award Debtor did not respond to this letter and the letter was not returned as undeliverable.

On September 7, 2007, the State Bar filed and served, by both certified and regular mail, an Order Re: Administrative Penalties on Award Debtor at her official State Bar membership records address. The Postal Service receipt was signed and postmarked September 12, 2007. The order provided that administrative penalties would not be imposed if Award Debtor complied with the arbitration award within two weeks of the date of service of the order. Because Award Debtor did not pay the award, penalties were imposed and added to her State Bar membership dues for the next calendar year.

As of this date, Award Debtor has failed to pay any portion of the arbitration award and has not responded to the Client's Enforcement Request.

C. Conclusions of Law

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 produced a payment plan acceptable to the client or the State Bar. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules of Procedure, rule 705(a).)

Since Award Debtor did not participate in this proceeding, the court finds the Award Debtor has not met her burden of demonstrating by clear and convincing evidence that she is not personally responsible for making or ensuring payment of the award; that she is unable to pay it; or that she has proposed and agrees to comply with a payment plan which the State Bar has unreasonably rejected as unsatisfactory. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules of Procedure, rule 705(b).)

IV. ORDER

IT IS ORDERED that Award Debtor **TRACY PETERLIN**, 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 of Procedure, rule 708(b)(1).)

IT IS FURTHERED ORDERED that Award Debtor **TRACY PETERLIN** must remain involuntarily enrolled as an inactive member of the State Bar until: (1) she has paid the arbitration award to Rhonda Gibson in the amount of \$435, plus interest at the rate of ten percent per annum from April 3, 2007, the date the award was served; (2) she has paid the administrative penalty of \$400, assessed by the Presiding Arbitrator's order filed on September 7, 2007, and reasonable costs, if any; and 3) the court grants a motion to terminate the inactive enrollment pursuant to rule 710 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 708(b)(2).)

Dated: February 20, 2008

RICHARD A. PLATEL
Judge of the State Bar Court