

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No. 08-AE-14912-DFM
	)	
<b>LAWRENCE R. YOUNG,</b>	)	<b>ORDER GRANTING MOTION FOR</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 38323,</b>	)	<b>ENROLLMENT [Bus. &amp; Prof. Code,</b>
	)	<b>§ 6203, subd. (d); Rules Proc. of State Bar,</b>
A Member of the State Bar.	)	<b>rule 700, et seq.]</b>

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**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 Sperber, Director of the Mandatory Fee Arbitration Program and Special Deputy Trial Counsel, seeking the involuntary inactive enrollment of Award Debtor **Lawrence R. Young** (Award Debtor), pursuant to Business and Professions Code section 6203, subdivision (d),<sup>1</sup> and rule 701 of the Rules of Procedure of the State Bar of California (Rules of Procedure) due to his failure to pay an arbitration award. Based on the State Bar’s motion, Award Debtor’s opposition, the State Bar’s reply to Award Debtor’s opposition, and the parties’ respective 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.

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<sup>1</sup> Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

## **II. Significant Procedural History**

On December 18, 2008, the Presiding Arbitrator, by and through his designee, Jill Sperber, filed a motion seeking the involuntary inactive enrollment of Award Debtor. (Bus. & Prof. Code, section 6203, subd. (d); Rules Proc. of State Bar, rule 700, et seq.) On December 26, 2008, Award Debtor, then representing himself, filed his response to the State Bar's motion seeking his involuntary inactive enrollment, but did not request a hearing. On January 6, 2006, the State Bar filed a reply to Award Debtor's opposition. On January 7, the matter was ordered submitted by this court.

On January 23, 2009, respondent, now represented by attorney Erica Tabachnick, filed a "Motion to Augment the Record Regarding the State Bar's Motion for Involuntary Inactive Enrollment," attaching with that motion two declarations. On January 30, 2009, the State Bar filed an objection to respondent's motion to augment the record. By order filed on February 4, 2009, the court vacated its prior order of submittal, granted Award Debtor's request to augment the record, and received respondent's proffered declarations.

## **III. Findings of Fact and Conclusions of Law**

### **A. Jurisdiction**

Award Debtor was admitted to the practice of law in California on January 5, 1966, and has been a member of the State Bar at all times since.

### **B. Arbitration Award**

In November 2004, Alan Sporn (Sporn) requested mandatory fee arbitration with the Orange County Bar Association to resolve a fee dispute with his former attorney, Lawrence R. Young (Award Debtor). The fee dispute arbitration took place on January 26, 2005. The arbitration hearing was originally set for September 24, 2004, after coordination of the calendars

of the three arbitrators, counsel for Sporn, and counsel for Award Debtor. The hearing was taken off calendar and was continued three days prior to the original hearing at the request of Award Debtor. Calendars were circulated and the hearing was rescheduled for January 26, 2005, after clearing that date with all counsel and arbitrators. The day before the hearing Award Debtor again requested a continuance based on an alleged conflict. In view of the fact that the Petition was filed on May 3, 2003, and was continued once at the request of the Award Debtor, the Presiding Arbitrator denied Award Debtor's second request for a continuance and notified Award Debtor that the arbitration would proceed as noticed. Sporn appeared with his counsel on January 26, 2005; Award Debtor failed to appear. Pursuant to the Orange County Bar Association Rules of Conduct for Mandatory Fee Arbitrations, the arbitration proceeded in the absence of Award Debtor who had been provided over two months notice. On March 17, 2005, the Orange County Bar Association served a binding arbitration award that awarded a refund of unearned attorney fees to Sporn in the amount of \$18,139.24, including \$639.24 for the program filing fee.

Award Debtor petitioned the Superior Court of Orange County to vacate the arbitration award on the ground that he was unable to appear for the arbitration hearing. Sporn opposed the petition and sought confirmation of the award. On March 13, 2006, a civil judgment was entered in favor of Sporn, confirming the award in the amount of \$18,139.24 plus pre-judgment interest in the amount of \$1,729.44 for a total of \$19,868.68. The judgment was not appealed and is final. The court also awarded Sporn attorney fees and costs incurred for confirmation in the sum of \$9,709.23, for a total judgment of \$29,577.91 as of April 11, 2006.

On April 25, 2006, Award Debtor sent \$2,500 to Sporn as a first payment and promised to pay the balance in monthly payments of \$1,000 on the 25<sup>th</sup> of each month. A second payment

of \$1,100 was made on May 24, 2006. A third payment of \$1,000 was paid on July 5, 2006, before Award Debtor stopped making further payments to Sporn.

On January 30, 2007, the State Bar Office of Mandatory Fee Arbitration (State Bar) received and filed Sporn's request for enforcement of an arbitration award (Client's Arbitration Request) pursuant to section 6203, subdivision (d)(5). The State Bar's receipt of the Client Request was timely.

On February 22, 2007, 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 of failing to comply with the award or to respond to the enforcement request by March 26, 2007. Award Debtor's office signed for the State Bar's February 22, 2007 mailing on February 27, 2007.

Award Debtor replied on March 15, 2007, stating that he and Sporn's attorney agreed to installment payments. Award Debtor also stated that had made four payments for a total of \$6,105, and that he would resume monthly installments of at least \$1,000.

The State Bar advised Award Debtor that it had received his reply and conveyed the payment proposal to make installments of \$250 per week to Sporn. By letter dated April 4, 2007, Sporn replied, advising the State Bar that neither he nor his attorney had accepted any payment plan from Young. Sporn's letter also requested that the State Bar commence enforcement proceedings.

Upon Sporn's rejection of any payment proposal, the State Bar obtained a financial statement from Young to support a proposal dated May 11, 2007, to pay \$1,000 monthly installments. By letter dated May 16, 2007, the State Bar advised Award Debtor that the State

Bar's Presiding Arbitrator approved his payment proposal and explained that installments were due by the 15<sup>th</sup> of each month.

On August 27, 2007, Sporn reported to the State Bar that Award Debtor was late on his May, June, and July 2007 payments, and that no payment had been received for August 2007.

As a result of Award Debtor's noncompliance with the plan, on September 17, 2007, the Presiding Arbitrator filed an Order re Administrative Penalties against Award Debtor. The Presiding Arbitrator's order assessed penalties against Award Debtor in the amount of \$2,000 for his failure to comply with the award. The order stayed the imposition of penalties for 30 days to give Award Debtor the opportunity to pay the remainder of the award and to avoid the imposition of penalties. The order was served on Award Debtor by certified mail, and was signed for on September 20, 2007. Since Award Debtor did not respond to the order, the penalties were imposed and added to his State Bar membership dues for the 2008 calendar year.

On October 20, 2007, Sporn wrote to the State Bar to report that Award Debtor made a late payment of \$1,000 to him on September 25, 2007. Award Debtor, however, had not brought his payments current and the payment due October 15, 2007, was still outstanding.

In a letter dated November 9, 2007, Award Debtor wrote to the State Bar that he had sent a check for \$1,000 to Sporn on October 17, 2007, which Sporn apparently had not received when Award Debtor wrote his October 20, 2007 letter.

Award Debtor supplied letters to the State Bar showing that he had paid Sporn \$250 on December 7, 2007, \$250 on January 18, 2008, \$250 on February 6, 2008, and \$250 on April 23, 2008. Award Debtor explained that due to difficult financial times he was falling behind in his bills.

On June 5, 2008, Sporn wrote a letter to the State Bar acknowledging receipt of \$300 on April 28, 2008, and \$250 in March 2008. Sporn again urged the State Bar to pursue formal enforcement proceedings. Sporn explained that he had advised Award Debtor to work down his bill, but that Award Debtor did not respond. Sporn also advised that he was fighting cancer and was in financial crisis himself.

On or about June 5, 2008, Young paid his bar dues for 2008, in the amount of \$3,500, including the \$2,000 in administrative penalties assessed in this matter.

In a June 6, 2008, letter to Award Debtor, the State Bar conveyed Sporn's position, urged Award Debtor to become current on his payment plan, and suggested that he obtain a personal loan.

In view of Award Debtor's sporadic, deficient payments, on July 31, 2008, the State Bar notified Award Debtor that it considered him in default. The State Bar, however, invited Award Debtor to submit a revised payment proposal for the Presiding Arbitrator's consideration and possible approval.

On September 10, 2008, Sporn reported by letter to the State Bar that Award Debtor had paid nothing since July 31, 2008, and insisted that the State Bar pursue Award Debtor's inactive enrollment.

On September 18, 2008, Award Debtor submitted a financial statement, but proposed the same plan that he had originally proposed, i.e. to pay \$1,000 per month.

Although Award Debtor twice proposed a payment plan accepted by the State Bar, he immediately defaulted by making late payments and paying deficient monthly amounts.

The State Bar's records indicate that Award Debtor has paid a total of \$17,750 to Sporn as of December 31, 2008, leaving a balance due of \$18,062.22, as of December 31, 2008. Thus,

as of the January 6, 2009 filing date of the State Bar's Reply to Opposition and Supplement to Motion for Inactive Enrollment, Award Debtor continued to be in default of his payment plans, including the most recent September 2008 plan.

**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 Proc. of State Bar, rule 705(a).)

Award Debtor does not dispute that the civil judgment is final and binding or that he is personally responsible for its payment. Award Debtor has failed to show by clear and convincing evidence that he is unable to make the monthly payments due under the payment plan to which he agreed. Although this court granted Award Debtor's January 23, 2009 motion to augment the record, Award Debtor failed to provide adequate supporting documentation that could excuse his failure to become current on his existing payment plan or evidence that would support his request for reduced payments to Sporn. Although he complains of poverty, he has failed, now on two occasions, to provide this court with a verified financial statement. This failure leaves the court without convincing evidence either to explain Award Debtor's repeated defaults or to confirm his claimed inability to become current on his payment plan and/or to pay the balance of the award.

Consequently, the court finds the 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 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. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules Proc. of State Bar, rule 705(b).)

#### **IV. Order of Involuntary Inactive Enrollment**

**IT IS ORDERED** that Award Debtor **Lawrence R. Young**, 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 708(b)(1).)

**IT IS FURTHERED ORDERED** that Award Debtor **Lawrence R. Young** must remain involuntarily enrolled as an inactive member of the State Bar until: (1) he has paid the balance of the arbitration award to Alan R. Sporn in the amount of \$18,062.22, plus interest at the rate of ten percent per annum from December 31, 2008; and (2) the court grants a motion to terminate the 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. (Bus. & Prof. Code, § 6203, subd. (d)(3); Rules Proc. of State Bar, rule 708(b)(2).)

Dated: February \_\_\_\_, 2009

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DONALD F. MILES  
Judge of the State Bar Court