

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 10-AE-03129-LMA
)	
HOMAYUN FATOLAH ZADEH)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 170667)	ENROLLMENT (Bus. & Prof. Code § 6203,
)	subd. (d); Rules Proc. of State Bar, rule 700,
<u>A Member of the State Bar.</u>)	et seq.)

INTRODUCTION

On March 25, 2010, the Presiding Arbitrator of the State Bar’s Mandatory Fee Arbitration Program filed a motion seeking the involuntary inactive enrollment of Award Debtor Hodayun Fatolah Zadeh, pursuant to Business and Professions Code section 6203, subdivision (d)¹ due to his failure to pay a fee arbitration award. The motion was served at his official membership records address on that same date by certified mail, return receipt requested, and by regular mail.

The court’s notice of assignment was properly served on Award Debtor at his official address on March 29, 2010. It was not returned as undeliverable.

Award Debtor did not file a response to the motion or request a hearing. (Rules 702(a) and (b) and 704.)

¹All future references to “section” are to the Business and Professions Code and to “rule” are to the Rules of Procedure of the State Bar unless otherwise stated.

The matter was submitted for decision on April 19, 2010.²

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jurisdiction

Award Debtor was admitted to the practice of law in California on June 6, 1994, and has been a member of the State Bar at all times since.

Facts

On April 21, 2009, the Bar Association of San Francisco served a binding fee arbitration award directing the Award Debtor to refund to his former client Tatiana Mordovina the sum of \$3250 in attorney fees, plus \$300 in filing fees, for a total of \$3550. (Bar Association of San Francisco, case no. 08.105.)

The award became final by operation of law on July 30, 2009.

On April 23, June 15 and August 3, 2009, David S. Levine, Mardovina's counsel regarding the fee arbitration matter, sent Award Debtor letters demanding payment of the arbitration award; However, Award Debtor did not respond to the demands. On August 7, 2009, submitted a request for enforcement of the arbitration award pursuant to section 6203, subdivision (d) to the State Bar's Office of Mandatory Fee Arbitration (State Bar).

On August 12, 2009, the enforcement request was served on Award Debtor by certified mail, return receipt requested, and by regular mail at his official membership records address. Award Debtor also was notified of the consequences for failing to comply with the award or to respond to the enforcement request by September 11, 2009. Neither letter was returned as undeliverable. Award Debtor did not respond to the letter

By letter dated September 17, 2009, the State Bar advised Award Debtor that the matter was being forwarded to the Presiding Arbitrator to issue an order imposing administrative

²The court's submission order, properly served on the Award Debtor at his official address on April 19, 2010, was not returned as undeliverable.

penalties. The letter was not returned as undeliverable. Award Debtor did not respond to the letter.

On October 21, 2009, the State Bar served an order imposing \$750 in administrative penalties on Award Debtor and staying their imposition for 14 days to allow him to provide proof of compliance with the arbitration award. Copies of the order were served on Award Debtor at his official membership records address by certified mail and by regular mail. Neither letter was returned as undeliverable.

The State Bar made several further attempts to resolve this matter informally by leaving voicemail on the Award Debtor's office answering machine on December 11, 2001 and February 1, 2010, and by writing to him on January 5, 2010. The Award Debtor did not respond to these communications.

Award Debtor has not paid the award as of March 19, 2010. As of March 25, 2010, the State Bar has not received any communication from Award Debtor regarding this matter and no evidence that he has paid the award.

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); 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); Rule 705(b).)

ORDER

IT IS ORDERED that Award Debtor, Homayun Fatolah Zadeh, 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 from the date of service of this order. (Rules Proc. of State Bar, rule 708(b)(1).)

IT IS FURTHER ORDERED that Award Debtor shall remain involuntarily enrolled as an inactive member of the State Bar until 1) he has paid the arbitration award and judgment to Tatiana Mordovina in the amount of \$3550 plus interest at the rate of ten percent per annum from April 21, 2009, the date the award was served; 2) he has paid the administrative penalty of \$750 assessed by the presiding arbitrator's order filed October 21, 2009; and 3) the court grants a motion to terminate the inactive enrollment pursuant to Rule 710, Rules Proc. of 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: May _____, 2010

LUCY ARMENDARIZ
Judge of the State Bar court