

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No. 10-AE-08361-LMA
)	
PETER JASON CABBINESS,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 185376,)	ENROLLMENT [Bus. & Prof. Code,
)	§ 6203, subd. (d); Rules Proc. of State Bar,
A Member of the State Bar.)	rule 700, et seq.]

I. INTRODUCTION

This matter is before the court on a 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 **Peter Jason Cabbiness** (“Award Debtor”), pursuant to Business and Professions Code section 6203, subdivision (d),¹ 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 Presiding Arbitrator’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 September 9, 2010, 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.) A copy of the

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

motion was properly served at Award Debtor's official State Bar membership records address ("official address") on September 9, 2010, by certified mail, return receipt requested, and by regular mail.²

On September 14, 2010, 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 September 14, 2010, at his official address. The copy of said notice was not subsequently returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

On September 23, 2010, Award Debtor filed a one-page response to the Presiding Arbitrator's motion. In his response, Award Debtor stated that the outstanding arbitration award would be forwarded to the client no later than September 26, 2010. Award Debtor did not request a hearing.

Having not received proof that Award Debtor paid the outstanding arbitration award, this matter was submitted for decision on October 12, 2010. That same day, a copy of the Submission Order was properly served on Award Debtor at his official address. The copy of the Submission Order was not subsequently 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 December 9, 1996, and has been a member of the State Bar at all times since.

B. Facts

On August 15, 2008, Artashes Khachatryan ("Khachatryan") requested mandatory fee arbitration with the Fresno County Bar Association to resolve a fee dispute with Award Debtor. On May 12, 2009, the Fresno County Bar Association served a non-binding arbitration award on the parties. It awarded Khachatryan a refund in the amount of \$2,500 in attorneys' fees and

² The court takes judicial notice of the State Bar's official membership records pursuant to Evidence Code section 452, subdivision (h).

costs, plus the \$100 arbitration filing fee. This award subsequently became final and binding because neither party filed a timely request for trial after arbitration.

On June 18, 2009, Khachatryan sent a letter to Award Debtor requesting payment of the award. Award Debtor did not subsequently pay the award or contact Khachatryan about the award.

On August 24, 2009, Khachatryan filed a request for enforcement of the arbitration award (“request for enforcement”) with the State Bar Office of Mandatory Fee Arbitration (“State Bar”) pursuant to section 6203, subdivision (d).

On or about August 27, 2009, the State Bar served the request for enforcement on Award Debtor by regular and certified mail at his official address. 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 September 26, 2009.

When the State Bar did not receive a reply from Award Debtor, it sent a warning letter to him on October 19, 2009, advising him of the ramifications of his continued non-compliance with a final and binding fee arbitration award. The letter advised that the State Bar would seek an order from the Presiding Arbitrator for administrative penalties to be imposed.

On October 21, 2009, Award Debtor called the State Bar’s offices and spoke with a case administrator. In that conversation, Award Debtor stated that he would submit a reply by October 28, 2009.

Award Debtor, however, did not submit a written reply as promised. The Presiding Arbitrator therefore issued an order assessing administrative penalties. This order was served on Award Debtor by both regular and certified U.S. mail on November 16, 2009. Award Debtor did not respond to this order and administrative penalties were subsequently imposed and attached to Award Debtor’s 2010 membership dues.

Despite the State Bar’s repeated efforts, Award Debtor has not addressed this matter or proven compliance with the award.

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).)

Since Award Debtor did not participate in this proceeding, the court finds he has not met his burden of demonstrating by clear and convincing evidence that: (1) he is not personally responsible for making or ensuring payment of the award; (2) he is unable to pay it; or (3) he has proposed and agrees to comply with a payment plan which the State Bar has unreasonably rejected. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules Proc. of State Bar, rule 705(b).)

IV. ORDER

IT IS ORDERED that Award Debtor **Peter Jason Cabbiness**, 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 must remain involuntarily enrolled as an inactive member of the State Bar until: (1) he has paid the arbitration award to Artashes Khachatryan in the amount of \$2,600, plus interest at the rate of ten percent per annum from May 12, 2009, the date the award was served; (2) he has paid 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: October __, 2010

LUCY M. ARMENDARIZ
Judge of the State Bar Court