

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>10-AE-04778-DFM</b>
	)	
<b>CARLOS EDUARDO CASTANEDA,</b>	)	<b>ORDER GRANTING MOTION FOR</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 140786,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

**Introduction**

On May 13, 2010 the Presiding Arbitrator of the State Bar’s Mandatory Fee Arbitration Program, Joel Mark (Presiding Arbitrator), and his designee, its Director and Special Deputy Trial Counsel Jill A. Sperber, filed a motion seeking the involuntary enrollment of Award Debtor **CARLOS EDUARDO CASTANEDA** (Award Debtor) under Business and Professions Code section 6203, subdivision (d)<sup>1</sup> due to Award Debtor’s failure to pay agreed monthly installment payments satisfying a fee arbitration award. The motion was properly served on May 12, 2010, at Award Debtor’s official membership records address, by certified mail, return receipt requested, and by regular mail. (Bus. & Prof. Code, §6002.1, subd. (c); Rules Proc. of State Bar, rule 701(b).<sup>2</sup>)

Award Debtor received actual notice of this proceeding but did not file a response to the motion or request a hearing. (Rules 702(a) and (b) and 704.) The court then ordered that the matter be submitted for decision without a hearing on June 3, 2010.

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

<sup>2</sup>References to “rule” are to the Rules of Procedure of the State Bar, unless otherwise noted.

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

### **Jurisdiction**

Award Debtor was admitted to the practice of law in California on June 7, 1989, and has been a member of the State Bar at all times since.

### **Case 10-AE-047783**

On June 13, 2006, the San Diego Bar Association served its Findings and Award in a fee arbitration between Award Debtor and Saida Soto. The award required Award Debtor to refund to Soto the amount of \$26,300 in attorneys' fees and costs. This award became binding on July 13, 2006.

When Award Debtor failed to pay the award, Soto sought the assistance of the State Bar in enforcing the award. Thereafter, Award Debtor entered into an agreement to pay the award in agreed monthly installments. The initial payment was \$2,000, followed by monthly payments commencing in November 2007 in the amount of \$500. These payments increased in November 2008 to \$750; and were to increase again in November 2009 to \$1,000.

Although Award Debtor was frequently late in making the monthly payments, his payments continued until October 2009. A total of \$18,000 has been paid to Soto by Award Debtor to date. His last payment was made on October 30, 2009. A balance of \$17,382.57, plus interest, remains.

The State Bar began contacting Award Debtor in late January 2010 regarding his need to make payments. Numerous communications have been sent to Award Debtor, and received by him, regarding his delinquent payments and the State Bar's intent to file proceedings to have Award Debtor enrolled inactive in the event he continued to ignore the situation. Despite receiving these communications, no explanation has been provided by Award Debtor to Soto or the State Bar by Award Debtor for his failure to make the mandatory monthly payments. After several unsuccessful efforts to have Award Debtor enrolled inactive on an ex parte basis, notice

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<sup>3</sup> The State Bar's request for judicial notice of the court's file in Case No. 07-AE-13088, including the stipulation and order, is granted.

of which efforts were provided at the time to Award Debtor, the instant motion was filed and served.

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 new 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 of Involuntary Inactive Enrollment**

Accordingly, **IT IS HEREBY ORDERED** that the State Bar's motion for involuntary inactive enrollment is **GRANTED** and that Award Debtor **CARLOS EDUARDO CASTANEDA** 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 of service of this order. (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 Saida Soto in the amount of \$17,382.57, plus interest at the rate of 10 percent per annum from October 30, 2009, the date of Castaneda's last payment to Soto; and (2) the court grants a motion to terminate his inactive enrollment pursuant to rule 710.

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

Dated: June 3, 2010

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DONALD F. MILES  
Judge of the State Bar Court

