

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

FILED

FEB 11 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of) Case No.: 13-AE-13542-RAH
)
LORRAINE DICKSON,) ORDER GRANTING MOTION FOR
) INVOLUNTARY INACTIVE
Member No. 220841,) ENROLLMENT
)
)
A Member of the State Bar.)

I. Introduction & Procedural History

On June 25, 2013, the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program, Kenneth E. Bacon,¹ filed a motion seeking the involuntary inactive enrollment of Award Debtor Lorraine Dickson due to her failure to pay a fee arbitration award (motion). (Bus. & Prof. Code, § 6203, subd. (d).)² The motion was properly served at Award Debtor's official membership records address, by certified mail, return receipt requested, and by regular mail. (§ 6002.1, subd. (c); Rules Proc. of State Bar, rule 5.361(B).)³ Attached to the motion was a certified copy of the Findings and Fee Arbitration Award of the San Fernando Valley Bar Association and declarations and other exhibits in support of the motion. (Rule 5.361(A).)

¹ The court notes that Mr. Bacon has not been the Presiding Arbitrator at all times pertinent to this matter. All references to Presiding Arbitrator refer to the Presiding Arbitrator at the time of the event referenced in the decision.

² References to sections are to the provisions of the Business and Professions Code.

³ References to rules are to the Rules of Procedure of the State Bar.



On July 5, 2013, Award Debtor filed an opposition/response to the motion requesting a hearing on the motion. (Rules 5.362 and 5.364.) In her opposition/response, Award Debtor objected to the certified copy of the Findings and Fee Arbitration Award of the San Fernando Valley Bar Association attached to the motion, alleging that it was defective.

The Presiding Arbitrator filed a reply to Award Debtor's opposition/response on July 24, 2013.

A hearing was held on August 28, 2013. Following the hearing, the court issued an order on August 29, 2013, in which it found Award Debtor's objection to be a motion to dismiss for a defective pleading under rule 5.124(C). Finding good cause, the court granted Award Debtor's motion to dismiss and dismissed the proceeding without prejudice. However, the court granted the Presiding Arbitrator leave to file an amended motion for involuntary inactive enrollment accompanied by a complete and accurate certified copy of the arbitration award as required under rule 5.361(A). The court noted that the remaining exhibits admitted at the hearing need not be recopied and attached. The Presiding Arbitrator was ordered to file and serve the amended motion and supporting exhibit within 20 days after service of this order, and the Award Debtor was ordered to file her response to the amended motion in accordance with rule 5.362(A). The court set forth that Award Debtor need not attach duplicate exhibits in her response, but may request to present additional evidence upon a showing of good cause. The court noted that if additional evidence is allowed by the court, the court would set a further hearing date.⁴

On September 18, 2013, the Presiding Arbitrator filed an amended motion seeking Award Debtor's involuntary inactive enrollment (amended motion). The amended motion was properly served at Award Debtor's official membership records address, by certified mail, return receipt

⁴ Although the court's order reflected the dismissal of this matter without prejudice, this was in error. The court intended merely for this matter to be continued, as demonstrated by the court granting the Presiding Arbitrator leave to file an amended motion without recopying and attaching exhibits previously admitted at the hearing.

requested, and by regular mail. (§ 6002.1, subd. (c); Rule 5.361(B).) Attached to the motion was a certified copy of the Findings and Fee Arbitration Award of the San Fernando Valley Bar Association and declarations and another exhibit in support of the motion. (Rule 5.361(A).)

Award Debtor filed her opposition/response to the amended motion on September 27, 2013, requesting to present additional evidence. Award Debtor also requested a hearing on the amended motion.

The Presiding Arbitrator filed a reply on October 10, 2013, to Award Debtor's opposition/response and requested to be permitted to produce declarants by telephone. Award Debtor filed an opposition to the request to produce declarants by telephone on October 22, 2013. The Presiding Arbitrator's request to have witnesses appear by telephone was denied.

A further hearing in this matter was held on January 16, 2014, and this matter was submitted for decision at the conclusion of the hearing.

II. Findings of Fact and Conclusions of Law

Award Debtor was admitted to the practice of law in California on November 23, 2002, and has been a member of the State Bar at all times since.

A. Facts

On October 14, 2010, the San Fernando Valley Bar Association served a nonbinding fee arbitration award in *Toumi v. Dickson*, case No. 2010-27, directing Award Debtor to refund to her former client Anis Toumi (Toumi) \$5,000 in unearned attorney fees and/or costs, plus the \$300 arbitration filing fee, for a total refund of \$5,300.

On November 11, 2010, Toumi sent a letter to Award Debtor requesting full payment of the arbitration award. Toumi received no reply to the letter from Award Debtor or any portion of the arbitration award.

The award became binding and final by operation of law on November 13, 2010, when the time for Award Debtor to move for trial after arbitration expired. (§ 6203, subd. (b).)

Thereafter, Toumi sought enforcement of the arbitration award from the State Bar's Office of Mandatory Fee Arbitration (State Bar). The State Bar received Toumi's request for enforcement of the arbitration award on December 10, 2010. (§ 6203, subd. (d)(5).)

The State Bar sent a letter to Toumi dated December 17, 2010, acknowledging receipt of his request for enforcement of the arbitration award against Award Debtor, but noting that the State Bar cannot enforce an arbitration award until 100 days have passed from service of the award. The letter acknowledged that Toumi's request for enforcement was premature, and this matter was abated until 100 days had passed from the service of the arbitration award.

On February 3, 2011, the State Bar served the enforcement request, the arbitration award, and other related documents on Award Debtor by certified mail, return receipt requested, and by regular mail at her official membership records address, along with a letter notifying her of the potential consequences for failing to comply with the award or to respond to the enforcement request by March 5, 2011. Award Debtor did not respond to the enforcement request.

Thereafter, the State Bar sent a letter to Award Debtor on March 24, 2011, confirming that her response to the request for enforcement of the arbitration award was due on March 5, 2011, but the State Bar had not received any communication from her. The letter advised Award Debtor that the matter was being forwarded to the Presiding Arbitrator for an order imposing administrative penalties against her. (§ 6203, subd. (d).) The Award Debtor was further advised that, as authorized by the Business and Professions Code, the Presiding Arbitrator may also move the court for an order placing her on involuntary inactive status until the arbitration award is paid. Award Debtor did not respond to the State Bar's March 24, 2011, letter.

As a result of Award Debtor's failure to respond to the State Bar's letters, on April 12, 2011, the Presiding Arbitrator ordered that a \$700 administrative penalty be imposed against Award Debtor, but stayed imposition of the administrative penalty for 14 days from the filing of the order and advised that the penalty would not be imposed if the State Bar received evidence by that date that Award Debtor had fully complied with the award. The order was served on Award Debtor at her official State Bar address by both certified mail, return receipt requested, and by regular mail. The return receipt was returned to the State Bar indicating that it was received by Award Debtor's agent on April 14, 2011.

On August 3, 2012, the State Bar sent a final letter to Award Debtor again advising her that the Presiding Arbitrator could move the court for an order placing her on involuntary inactive status and that she would then not be entitled to practice law in this state until she complied fully with the arbitration award and paid any penalties imposed and costs awarded.

To date, Award Debtor has not had any contact with either the State Bar or Toumi and no portion of the arbitration award has been paid to Toumi.

B. 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 the State Bar. (§ 6203, subd. (d)(2)(A); Rule 5.365(A).)

The court also finds that Award Debtor has not met the 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 unreasonable rejected as unsatisfactory. (§ 6203, subd. (d)(2)(B); Rule 5.365(B).)

III. Order of Involuntary Inactive Enrollment

ACCORDINGLY, IT IS ORDERED that the State Bar's motion for involuntary inactive enrollment is **GRANTED** and that Award Debtor **Lorraine Dickson** be enrolled as an inactive member of the State Bar of California, effective five days after service of this order. (§ 6203, subd. (d)(1); Rule 5.368(B)(1).)

IT IS FURTHER ORDERED that Award Debtor must remain involuntarily enrolled as an inactive member of the State Bar until:

1. Award Debtor has paid the arbitration award to Anis Toumi in the amount of \$5,300.00, plus interest at the rate of 10% per year from October 14, 2010, the date of service of the award;⁵ and
2. The court grants a motion to terminate Award Debtor's inactive enrollment (Rule 5.370).

Reasonable costs are awarded to the State Bar upon the Presiding Arbitrator's submission of a bill of costs. (§6203, subd. (d)(3); Rule 5.368(B)(2).)

IT IS SO ORDERED.

Dated: February 11, 2014



RICHARD A. HONN
Judge of the State Bar Court

⁵ Award Debtor has paid in full the administrative penalty ordered by the Presiding Arbitrator on April 12, 2011.

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 11, 2014, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION FOR INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

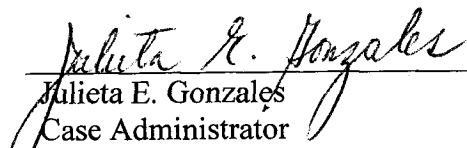
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LORRAINE DICKSON
1800 N BRISTOL ST STE C-457
SANTA ANA, CA 92706

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Kenneth E. Bacon, Mandatory Fee Arbitration Program, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 11, 2014.



Julieta E. Gonzales
Case Administrator
State Bar Court