

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No. 14-AE-05149-LMA
)	
JOSEPH YOUNG,)	
)	ORDER GRANTING MOTION FOR
Member No. 248795,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	
_____)	

Introduction¹

This matter is before the court on motion filed by Kenneth E. Bacon, Presiding Arbitrator of the State Bar’s Mandatory Fee Arbitration Program, seeking the involuntary inactive enrollment of award debtor Joseph Young (Award Debtor), under Business and Professions Code section 6203, subdivision (d), and rule 5.361 of the Rules of Procedure of the State Bar due to his failure to pay an arbitration award in full.

Based on the State Bar’s motion and supporting documents, the court finds that Award Debtor has agreed to a payment plan and has failed to make one or more payments required by the payment plan. Accordingly, the motion is granted and Award Debtor is enrolled as an

¹ Unless otherwise indicated, all references to rules refer to the Rules of Procedure of the State Bar of California. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

inactive member of the State Bar of California, effective five days from the date of service of this order. (Rule 5.368.)

Significant Procedural History

On September 29, 2014, the Presiding Arbitrator filed a motion seeking the involuntary inactive enrollment of Award Debtor. (§ 6203, subd. (d); rule 5.361 et seq.) A copy of this motion was properly served on Award Debtor at his official membership records address on September 26, 2014, by certified mail, return receipt requested, and by regular mail. Award Debtor did not file a response to the motion or request a hearing.

The court ordered the matter submitted for decision on October 20, 2014.

Findings of Fact and Conclusions of Law

Jurisdiction

Award Debtor was admitted to the practice of law in California on May 11, 2007, and has been a member of the State Bar at all times since.

Facts

The Los Angeles County Bar Association arbitrated a fee dispute between Award Debtor and client Sheryl Wilson. On May 7, 2012, the Los Angeles County Bar Association served Award Debtor with a nonbinding fee arbitration award, which awarded Wilson a refund of \$3,200 of unearned attorney fees and costs as well as return of the \$150 arbitration filing fee and interest from June 6, 2012, for a total award of \$3,350.

The award became final and binding by operation of law when neither Young nor Wilson filed an action to overturn it. (§ 6204.)

On June 12, 2012, Wilson sent a letter to Award Debtor demanding payment of the award. But Award Debtor did not reply to the letter or pay any portion of the award to her.

On August 17, 2012, Wilson filed a request for enforcement of the arbitration award with the State Bar Mandatory Fee Arbitration Program (State Bar). On the same day, 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 for failing to comply with the award or to respond to the enforcement request by September 16, 2012.

Award Debtor did not respond to the State Bar's August 17 letter. On September 17, 2012, the State Bar sent a warning letter to Award Debtor, reiterating the actions the State Bar would take if the award remained unsatisfied. In response to the State Bar's September 17 letter, Award Debtor telephoned the State Bar on September 20, 2012, and offered to pay the award in 12 monthly installments of \$288.47.

Wilson, however, rejected the offer. The State Bar offered a counter-proposal of 12 monthly payments of \$307.71, albeit over Wilson's demand that the Award Debtor pay her the entire award in a lump sum. On October 26, 2012, the Award Debtor accepted the counter-proposal. In a letter to the Award Debtor on the same day, the State Bar confirmed the terms of the payment and advised him that his default on the approved payment plan would make the entire balance of the award due immediately and would also be sufficient grounds for the State Bar to seek his involuntary inactive enrollment.

Pursuant to the plan, Award Debtor made four successful monthly payments of \$307.71 to Wilson beginning November 2012, totaling \$1,230.84. He failed to make the payment due May 1, 2013. He defaulted by issuing two insufficiently funded checks and making no further payments on the approved payment plan despite numerous letters and telephone calls to his office.

By letter dated June 17, 2013, the State Bar confirmed his default and advised Award Debtor that the State Bar intended to proceed with both administrative penalties and with seeking his involuntary inactive enrollment. Award Debtor did not respond to the letter.

On September 24, 2013, the Presiding Arbitrator issued an order imposing administrative penalties against Award Debtor in the amount of \$200 for his failure to comply with the award. The order stayed the imposition of the penalty for 14 days to allow him a final opportunity to comply with the award. Copies of the order were served on Award Debtor at his official membership records address by certified and regular mail. Since Award Debtor did not respond, the penalty of \$200 was imposed and added to his State Bar membership dues for the 2014 calendar year.

In a final attempt to settle the matter, the State Bar wrote to Award Debtor on July 16, 2014, advising him that the penalty of \$200 had been added to his 2014 State Bar membership dues and that the State Bar intended to seek his involuntary inactive enrollment.

To date, neither Wilson nor the State Bar had any further contact with Award Debtor and no further payments have been made. Award Debtor still owes \$2,119.16 (\$3,350 - \$1,230.84), the remaining balance of the arbitration award.

Conclusions of Law

The court finds that the Presiding Arbitrator has met the burden of demonstrating by clear and convincing evidence that Award Debtor agreed to a payment plan and has failed to make one or more payments required by the payment plan. (§ 6203, subd. (d)(2); rule 5.365(A)(2).)

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 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. (§ 6203, subd. (d)(2); rule 5.365(B).)

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 Joseph Young be enrolled as an inactive member of the State Bar of California, effective five days from the date of service of this order. (§ 6203, subd. (d)(1); rule 5.368(B)(1).)

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

1. Joseph Young has paid the remainder of the arbitration award to Sheryl Wilson in the amount of \$2,119.16, plus interest at the rate of 10 percent per annum from May 1, 2013, the date of the last payment due;
2. Joseph Young has paid the administrative penalty of \$200 assessed by the Presiding Arbitrator's order filed September 25, 2013;
3. Joseph Young has paid reasonable costs; and
4. The court grants a motion to terminate Joseph Young'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: November _____, 2014

LUCY ARMENDARIZ
Judge of the State Bar Court