

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 14-AE-00686-RAH
)	
WILLIAM WALTON STEWART,)	ORDER GRANTING MOTION FOR
)	INVOLUNTARY INACTIVE
Member No. 49805,)	ENROLLMENT [Bus. & Prof. Code,
)	§ 6203, subd. (d); Rules Proc. of State Bar,
A Member of the State Bar.)	rule 5.360, et seq.]

INTRODUCTION

This matter is before the court on motion filed by Kenneth E. Bacon, Presiding Arbitrator of the Mandatory Fee Arbitration Program of the State Bar of California (State Bar), seeking the involuntary inactive enrollment of Award Debtor **William Walton Stewart** (Award Debtor), pursuant to Business and Professions Code section 6203, subdivision (d), and rule 5.360, et seq., of the Rules of Procedure of the State Bar of California (Rules of Procedure) 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.

SIGNIFICANT PROCEDURAL HISTORY

On February 10, 2014, the State Bar filed a motion seeking the involuntary inactive enrollment of Award Debtor. (Bus. & Prof. Code, section 6203, subd. (d), Rules of Procedure, rule 5.360, et seq.) A copy of this motion was properly served at Award Debtor's official membership records address, by certified mail, return receipt requested, and by regular mail.

Award Debtor failed to respond to the State Bar's motion or request a hearing (Rules of Procedure, rule 5.362).

On February 11, 2014, the court filed a Notice of Assignment. That same day, a copy of said notice was properly served on Award Debtor by first-class mail, postage fully prepaid at his official membership records address. The copy of said notice was not returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

This matter was submitted for decision on February 28, 2014. That same day, a copy of the Submission Order was properly served on Award Debtor at his official address and has not since been returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Award Debtor was admitted to the practice of law in California on June 29, 1971, and has been a member of the State Bar at all times since.

Facts

On June 27, 2006, Ruben Rodriguez (Rodriguez) requested mandatory fee arbitration with the Orange County Bar Association to resolve a fee dispute with Award Debtor. On April 20, 2007, the Orange County Bar Association served a non-binding arbitration award on the parties. It awarded Rodriguez a refund in the amount of \$21,000 in attorneys' fees and filing fees. This award subsequently became final and binding on or about January 24, 2008, when the Orange County Superior Court rejected Award Debtor's request for trial de novo and issued an order confirming the judgment.

On June 7, 2007, Rodriguez sent a letter to Award Debtor demanding payment of the award. On February 21, 2008, Rodriguez filed a request for enforcement of the arbitration award (request for enforcement) with the State Bar pursuant to Business and Professions Code section 6203, subdivision (d).

On February 27, 2008, the State Bar served the request for enforcement on Award Debtor by regular and certified mail.¹ 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 March 28, 2008.

Award Debtor did not respond to the State Bar's February 27, 2008 letter. On April 1, 2008, the State Bar sent another letter to Award Debtor. This letter was a warning letter, advising Award Debtor of the ramifications of his continued failure to either comply with the arbitration award judgment or respond to the State Bar's correspondence.

Award Debtor responded to the State Bar's April 1, 2008 letter. The parties subsequently negotiated a payment plan, which included the payment of costs and interest. Pursuant to the plan, Award Debtor made monthly \$1,000 payments to Rodriguez.² By June 2010, Award Debtor had paid Rodriguez a total of \$21,000; however, Award Debtor and Rodriguez were in disagreement over the amount of interest owed.

On June 1, 2012, the State Bar sent Award Debtor and Rodriguez a letter calculating the outstanding interest as \$3,402.22 as of June 5, 2010. On July 18, 2012, Award Debtor proposed paying the interest in two monthly payments of \$1,701.11. Rodriguez agreed to this plan. On July 19, 2012, the State Bar wrote to Award Debtor advising him that Rodriguez approved the plan. Award Debtor, however, subsequently failed to make any interest payments.

On September 24, 2012, the State Bar wrote a letter to Award Debtor confirming his default of the newly-approved interest payment plan and advising him of its intent to go forward with the present motion. Award Debtor did not respond to this letter and neither Rodriguez nor the State Bar had any further contact with Award Debtor. As of February 7, 2014, no portion of the aforementioned interest had been paid.³

¹ All letters from the State Bar to Award Debtor were sent to his official State Bar membership records address.

² While Award Debtor failed to make timely payments on multiple occasions, he was subsequently able to cure these defaults.

³ There is no indication in the record of any payments after February 7, 2014.

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 agreed to a payment plan and has failed to make one or more payments required by the payment plan. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules of Procedure, 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. (Bus. & Prof. Code, § 6203, subd. (d)(2); Rules of Procedure, rule 5.365(B).)

ORDER

IT IS ORDERED that Award Debtor **WILLIAM WALTON STEWART**, 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 of Procedure, rule 5.368(B)(1).)

IT IS FURTHER ORDERED that Award Debtor **WILLIAM WALTON STEWART** must remain involuntarily enrolled as an inactive member of the State Bar until: (1) he has paid the remainder of the arbitration award to Ruben Rodriguez or Liduvina Rodriguez⁴ in the amount of \$3,402.22, plus interest at the rate of ten percent per annum from June 5, 2010, the date of the last payment made by Award Debtor; (2) he has paid reasonable costs, if any; and (3) the court grants a motion to terminate the inactive enrollment pursuant to rule 5.370(A) of the Rules of Procedure of the State Bar of California.

///

⁴ Liduvina Rodriguez provided the State Bar with notice that she had limited power of attorney to act on Ruben Rodriguez's behalf in the State Bar's arbitration enforcement case.

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 5.368(B)(2).)

Dated: March ____, 2014

RICHARD A. HONN
Judge of the State Bar Court