

**BEFORE THE TAX APPEAL BOARD  
OF THE STATE OF DELAWARE**

CHING KANG LEE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 1792
	)	
STATE ESCHEATOR,	)	
	)	
Respondent.	)	

BEFORE: Todd C. Schiltz, Esq., Steven R. Director, Esq., Joan Winters, CPA,  
Robert Slavin and M. Lynn Fuller

Ching Kang Lee, *pro se*

Anthony J. Testa, Jr., Esq., Deputy Attorney General, for Respondent

**DECISION AND ORDER**

This is an unclaimed property case where shares of Seagate Technology PLC and Identive Inc. owned by petitioner Ching Kang Lee (“Petitioner”) were escheated to the State of Delaware and then sold by respondent State Escheator (“Respondent”) in 2016. After Petitioner submitted a claim regarding the shares in 2021, Respondent determined that Petitioner was entitled to recover the sale proceeds plus a cash dividend issued on the shares, and sent Petitioner a check for that amount. On November 18, 2021, Petitioner cashed the check.

On February 14, 2022, Petitioner filed his petition with the Board. Petitioner seeks the return of his shares in this proceeding. On March 8, 2022, Respondent

filed a motion to dismiss the petition for failure to state a claim arguing that she had complied with the applicable Delaware unclaimed property laws and Petitioner was not entitled to any further relief beyond what he had already been afforded. On April 13, 2022, the Board held an initial conference with the parties. At that conference, the Board set a briefing schedule on Respondent's motion to dismiss.

On June 9, 2022, Petitioner asked for more time to file his brief in opposition to the motion to dismiss. The Board granted that request on June 22, 2022. On July 20, 2022, Petitioner asked for a further extension. Although the Respondent opposed this request, the Board granted it. When granting the request, the Board advised Petitioner that this would be the last extension he would receive.

The revised schedule required Petitioner to file his answering brief on or before September 19, 2022. Petitioner did not file his brief by September 19.

On October 4, 2022, the Board's secretary advised Petitioner by email that the Board had not received his answering brief and that if it was not filed by November 18, 2022, the Board would consider dismissing the petition for lack of prosecution. Petitioner has not responded to the email or filed papers in opposition to the motion to dismiss.

"[A] party must actively pursue a claim from its onset through its conclusion." *Breeding v. Hillandale Farms of Delaware, Inc.*, 2011 WL 378847, at \*2 (Del. Super. Jan. 28, 2011). Superior Court Civil Rule 41(e) provides that if no action is

taken in a case for six months, the Prothonotary shall mail notice to the parties stating that if no action is taken within 30 days, the matter will be dismissed for want of prosecution.

Here, the motion to dismiss has been pending for more than nine months. Petitioner was granted several extensions of time to address the motion and was advised that his petition might be dismissed if he takes no action. Notwithstanding these extensions and warnings, Petitioner still has not filed responsive papers. Under these circumstances, the Board believes that the case should be dismissed for want of prosecution.

For the reasons stated above, the Board dismisses Petitioner's petition for failure to prosecute. Judgment is entered for Respondent.

Paul C. S. B.

James M. Winters

Th. Lynn Fuller

Robert W. Slavin

SO ORDERED this 20<sup>th</sup> day of December, 2022.