

AGENDA ITEM

54-131 FEB

DATE: January 24, 2012

TO: Members, Member Oversight Committee
Members, Board of Trustees

FROM: Member Liaisons:
George Davis
Nancy Fineman
Mark Shem

SUBJECT: Member Request for Adjustment to Fees and/or Penalties

EXECUTIVE SUMMARY

Members may request that adjustments be made to their membership fees and penalties. Title Two, Rule 2.16 (H) of the Rules of the State Bar states that the Board reserves the right for good cause grant requests for waivers that were denied by staff and to consider all other requests for waivers. This item consolidates several member requests for which the Board's Membership Liaisons have determined that good cause exists to recommend fee adjustments.

Board members with questions or concerns may contact Dina DiLoreto, 415/538-2121 or dina.diloreto@calbar.ca.gov

BACKGROUND

Rule 2.16 of Title Two of the Rules of the State Bar of California provides for waiver of annual membership fees and penalties. Previously, the vast majority of requests for waivers were made under Rule 2.16 (C) which contained hardship provisions. In July 2011, the Board eliminated the hardship provisions, and a one-time-only provision for any reason, from the Rule 2.16 (C). Now, Rule 2.16 (C) specifies two circumstances where staff may grant a member's request for waiver of up to \$1,000 in annual membership fees and penalties for the year in which they are due. These two circumstances are that 1) the member serves full-time as a magistrate, commissioner, or referee for a state or federal court of record, or 2) the member is a retired judge who accepts assignments from the Chief Justice in the assigned judges' program of the Administrative Office of the Courts.

Rule 2.16 (H) provides that the Board of Trustees reserves the right for good cause 1) to grant requests for waivers denied by staff and 2) to consider requests that fall outside

of staff's authorization for granting a waiver of fees and penalties. Traditionally, Board members who are appointed as Membership Liaisons have reviewed the waiver requests that come under Rule 2.16 (H) and have made recommendations to MOC and the Board of Trustees where the Liaisons determined that good cause exists to make fee adjustments.

In assessing what constitutes good cause for purposes of determining whether or not the Board of Trustees should grant a fee waiver, the member's justifications for a fee waiver should be weighed against the public policy reasons for imposing annual membership fees. The primary public policy reason for imposing State Bar membership fees is to provide funding for an effective attorney regulatory system that protects the public and eases the burdens on the courts. The system is funded **solely** through the imposition and collection of annual fees. For this reason, membership fee waivers should not be granted as a matter of course, but rather should be limited to extraordinary compelling, exigent situations where the member did not contribute to the cause of the failure to pay full fees.

ISSUE

Do the Board Committee on Member Oversight (MOC) and the Board of Trustees agree with the recommendations of the Membership Liaisons that good cause exists to grant the requests for fee adjustments for the State Bar member(s) listed below? MOC and the Board of Trustees may deny or agree **in whole** or **in part** with any of the recommendations.

DISCUSSION

The following member(s) have requested adjustments to their annual State Bar membership fees. Staff has reviewed these requests and established that they do not meet the qualifications for staff waivers (See Rule 2.16 (C)), or that the amounts are greater than \$1,000. The requests that are less than \$1,000 have been reviewed and denied by staff, and the member(s) have appealed to the Member Liaisons. The Liaisons have determined that good cause exists to recommend the adjustments.

Norman Elfstrom (#60347) Admitted October 7, 1974. Member is currently on Inactive status. Member is requesting a waiver of his 2012 membership fees in the amount of \$115. Member's request is based on a medical hardship caused by a condition known as renal insufficiency. This condition has prevented the member from obtaining employment, which has in turn caused a financial hardship as well. Member has been a recipient of a medical hardship waiver since 1995. Member has submitted a letter of explanation, a financial declaration and a statement from the Social Security Administration about his current benefits.

Bruce Singman (#58317) Admitted December 20, 1973. Member is currently on Active status. Member is requesting a waiver of his 2012 membership fees in the amount of \$400. Member's request is based on a financial hardship. Member has received a financial hardship waiver for the past 3 years. Member has submitted a letter of explanation, a financial declaration and a copy of his online bank statement.

Marci Moore (#169627) Admitted January 12, 1994. Member is currently on Inactive status. Member is requesting a waiver of her 2012 membership fees in the amount of \$115. Member's request is based on a medical hardship due to cancer, which has left her permanently disabled. Member has received a medical hardship waiver for the past 4 years. Member has submitted a letter of explanation, a financial declaration and a letter from her doctor.

FISCAL / PERSONNEL IMPACT:

This is the first set of recommendations submitted by the Membership Liaisons for membership year 2012. This item contains three recommendations. If the recommended adjustments below are approved, the year to date fiscal impact of the Membership Liaison process will be \$430.

RULE AMENDMENTS:

None

BOARD BOOK IMPACT:

None

RECOMMENDATION

The Membership Liaisons believe there is good cause to grant the following fee adjustments:

Norman Elfstrom (#60347): Waive member's 2012 Inactive membership fees in the amount of \$115.

Bruce Singman (#58317): Waive half of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice, to avoid late payment penalty.

Marci Moore (#169627): Waive member's 2012 Inactive membership fees in the amount of \$115.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Member Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Member Oversight Committee recommends that the Board approve the fee adjustments for the following State Bar member(s) as noted below:

Norman Elfstrom (#60347): Waive member's 2012 Inactive membership fees in the amount of \$115.

Bruce Singman (#58317): Waive half of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice to avoid late payment penalty.

Marci Moore (#169627): Waive member's 2012 Inactive membership fees in the amount of \$115.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Member Oversight Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the fee adjustments for the following State Bar member(s) as noted below:

Norman Elfstrom (#60347): Waive member's 2012 Inactive membership fees in the amount of \$115.

Bruce Singman (#58317): Waive half of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice to avoid late payment penalty.

Marci Moore (#169627): Waive member's 2012 Inactive membership fees in the amount of \$115.