

OPEN SESSION AGENDA ITEM

54-143 SEPTEMBER 2018 FINANCE & PLANNING COMMITTEE ITEM II.A.

DATE: September 13, 2018

TO: **Members, Finance and Planning Committee
Members, Board of Trustees**

FROM: Brandon Stallings, Alan Steinbrecher, Debbie Manning
Omar Easley, Program Coordinator, Attorney Regulation & Consumer Resources

SUBJECT: Licensee Requests for Adjustments to Fees and Penalties

EXECUTIVE SUMMARY

Licensees may request that adjustments be made to their license 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 to grant requests for waivers that were denied by staff and to consider all other requests for waivers. This item recommends action on the final 15 requests for waivers received by State Bar staff. For each request, the Board's Licensee Liaisons have determined that good cause exists to recommend fee adjustments

BACKGROUND

Rule 2.16 of Title Two of the Rules of the State Bar of California provides for waiver of annual license fees and penalties. Rule 2.16 (C) specifies three circumstances where under which staff may grant a licensee's request for waiver of up to \$1,000 in annual licensing fees and penalties for the year in which they are due: (1) the licensee serves full-time as a magistrate, commissioner, or referee for a state or federal court of record; (2) the licensee is a retired judge who accepts assignments from the Chief Justice in the assigned judges' program; or 3) the licensee's total gross annual household income from all sources is \$20,000 or less, in which case the waiver is 50% of the annual license fees.

Rule 2.16 (D) – (G) also allows staff to grant waivers for licensees serving in the National Guard or in one of the military reserve units for at least 30 days, judicial offers who are leaving office, inactive licensees over 70 years of age, and licensees enrolled in the State Bar of California Pro Bono Practice Program.

Rule 2.16 (H) reserves to the Board of Trustees the authority, 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, a small group of Board members volunteer to meet with staff, review the waiver requests that come under Rule 2.16 (H) and then make recommendations to the appropriate Board committee and the Board of Trustees on whether good cause is present to grant the waiver requests. After confirming with the chair of the Finance and Planning Committee that this structure for consideration of waiver requests remained acceptable, staff secured Trustees Brandon Stallings, Alan Steinbrecher, and Debbie Manning as the Board liaisons. Both Trustee Stallings and Trustee Steinbrecher have served in this capacity in prior years.

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

On July 20, 2018, the Board approved recommendations from the Board's licensee liaisons on 82 requests for waiver or adjustment of fees, granting waiver or adjustment on 28 requests, totaling \$9,686,75.

DISCUSSION

The following table lists all 15 requests for waivers considered by the Board liaisons, along with the recommendations of the Board liaisons to grant or partially grant the request. The Board liaisons do not recommend full denial of any of these requests. The 15 waiver requests fall into two categories: (1) requests that are outside staff's authority to grant because they exceed \$1,000 or do not meet the parameters of Rule 2.16 (C); and (2) appeals of requests within staff's authority to consider, but which staff denied. The Board liaisons recommendations are based on their review of the full request and supporting information provided by the requesting attorney. For the Finance & Planning Committee and the Board, the table below summarizes the request only at a high level. The table is organized to first list those waiver requests recommended for approval by the Board liaisons, and then to list those waiver requests recommended for partial approval.

#	Name	Bar # / Admission Year	Status	Request / Comments	Liaison Recommendation
1.	Steven Bao-Ahn Nguyen	285635 / 2012	Active	Attorney has no current balance. Attorney requests a waiver of the 2018 late payment penalty. Attorney's request is based on financial and medical hardship.	Grant- \$100

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2.	Diane Zipperstein	110638 / 1983	Active	Attorney has no current balance. Attorney requests a waiver of the 2018 late payment penalty. Attorney's request is based on family hardship caused by natural disaster.	Grant - \$100
3.	Lewis Owen Amack	177774 / 1995	Not Eligible	Attorney has a current balance of \$1,672. Attorney requests a waiver or reduction of his outstanding balance. Attorney's request is based on financial hardship.	Partial Grant- Attorney pays scaled license rate and late fees for 2016 - 2018, for a waiver of \$283.75
4.	Johannes Epke	271720 / 2010	Active	Attorney has no current balance. Attorney requests a waiver of his license fees and late payment penalties for years 2013 through 2016. Attorney's request is based on financial hardship.	Partial Grant - Attorney pays scaled license rate and late fees for 2013 - 2016, for a waiver of \$380.
5.	Crystal Gail Gibson	276610 / 2011	Active	Attorney has no current balance. Attorney requests late fee scaling and a waiver of the late payment penalty. Attorney's request is based on her claim that she did not receive adequate notice that her 2018 license fees were due.	Partial Grant - Attorney pays scaled license rate and late fees, for a waiver of \$95.75
6.	Eric T. Goldie	220492 / 2002	Active	Attorney has no current balance. Attorney requests late fee scaling and a waiver of the 2018 late payment penalty. Attorney's request is based on his claim that he did not receive notice that his 2018 license fees were due and for financial hardship.	Partial Grant- Attorney pays scaled license rate and late fees, for a waiver of \$95.75.
7.	Daniel Jerome Goodstein	97579 / 1981	Not Eligible	Attorney has a current balance of \$1,185. Attorney requests a waiver of his current balance. Attorney's request is based on financial and medical hardship.	Partial Grant- Attorney is granted a 25% reduction of his current balance for a waiver of \$296.25

#	Name	Bar # / Admission Year	Status	Request / Comments	Liaison Recommendation
8.	William S. Johnstone	28354 / 1958	Inactive	Attorney has no current balance. Attorney requests the Inactive license rate for 2018 and waiver of the 2018 late payment penalty. Attorney's request is based on medical hardship.	Partial Grant - Attorney pays Inactive license rate for 2018, for a waiver of \$430.
9.	Gordon James King	77011 / 1977	Inactive	Attorney has a current balance of \$375. Attorney requests the Inactive rate for 2018. Attorney's request is based on his lack of understanding about the process to transfer his license to Inactive status.	Partial Grant - Attorney pays scaled license rate, for a waiver of \$95.75
10.	Barbara Levay	157676/ 1992	Not Eligible	Attorney has a current balance of \$3,061.25. Attorney requests a waiver of her current balance. Attorney's request is based on family hardship.	Partial Grant – Attorney is granted a 25% reduction of her current balance, for a waiver of \$765.31.
11.	Besty Lynn Loureiro	239187 / 2005	Active	Attorney has a current balance of \$241.50. Attorney requests a waiver of the 2018 license fee and late payment penalty. Attorney's request is based on financial and medical hardship.	Partial Grant - Attorney pays the Inactive license fee and the Inactive late payment penalty, provided that she transfers to Inactive status, for a waiver of \$345.
12.	James P. Nassella	297431 / 2014	Active	Attorney has a current balance of \$530. Attorney requests a waiver of the 2018 license fee and late payment penalty. Attorney's request is based on financial hardship.	Partial Grant - Attorney pays scaled license rate and late payment penalty, for a of \$95.75.
13.	Sean Riley Richardson	310144 / 2016	Inactive	Attorney has a current balance of \$530. Attorney requests a waiver of the 2018 license fee and late payment penalty. Attorney's request is based on financial hardship.	Partial Grant - Attorney pays the Inactive license fee and the Inactive late payment penalty for a waiver t of \$345.

#	Name	Bar # / Admission Year	Status	Request / Comments	Liaison Recommendation
14.	Diego D. Santana	207199 / 2000	Active	Attorney has a current balance of \$530. Attorney requests a waiver of the 2018 license fee and late payment penalty. Attorney's request is based on medical hardship.	Partial Grant - Attorney pays the Inactive license rate for 2018 and the late penalty is waived, provided that he transfers to inactive status, for a waiver of \$375
15.	June Elaine Teecher	22119 / 1951	Not Eligible	Attorney has a current balance of \$530. Attorney requests a waiver of the 2018 license fee and late payment penalty. Attorney's request is based on financial hardship.	Partial Grant - Attorney pays scaled license rate and the late payment penalty, for a waiver of \$95.75

FISCAL/PERSONNEL IMPACT

This item contains 15 recommendations for a waiver or adjustment of fees for a total financial impact of \$3,903.32. If the recommended adjustments are approved, the year to date fiscal impact of waivers board waivers granted in 2018 will be \$13,590.07.

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATION

It is recommended that the Finance and Planning Committee and Board of Trustees approve the following resolution:

RESOLVED, that that the Board of Trustees approve the fee adjustments for the State Bar licensees as presented this day before the Board, and on file in the San Francisco office of the State Bar.

ATTACHMENT(S) LIST

None