

ATTACHMENT C

PROPOSED ADDITIONS AND AMENDMENTS TO THE STATE BAR RULES

Title 2, Division 3

(For public comment, May 2012)

[Insert text begins] **[New] Rule 2.36 Suspension for failure to pay state taxes** [Insert text ends]

[Insert text begins] (A) A member identified under the terms of Business and Professions Code section 494.5 as delinquent in the payment of state taxes will be suspended from the practice of law by the Supreme Court.[Insert text ends]^[1] [Insert text begins]^[1] [Insert text ends]

[Insert text begins] (B) The State Bar will send a written notice of suspension for failure to pay state taxes to the member's address of record. The suspension will be effective on the date ordered by the Supreme Court.[Insert text ends]

[Insert text begins] (C) The State Bar will reinstate a member if it receives statutory notice[Insert text ends]^[2] [Insert text begins]^[2] releasing the member and if the member has paid any fee authorized by statute.[Insert text ends]^[3] [Insert text begins]^[3] [Insert text ends]

[Insert text begins] (D) If a reinstated member subsequently fails to comply with an installment payment agreement that the member entered into with the State Franchise Tax Board or the State Board of Equalization,[Insert text ends]^[4] [Insert text begins]^[4] the State Bar will request that the Supreme Court suspend the member within thirty days and will send written notice of its request to the member's address of record.[Insert text ends]

[Insert text begins] (E) Annual membership fees accrue according to the member's status prior to suspension.[Insert text ends]

Rule [Deleted text begin] 2.36 [Deleted text end] [Insert text begins] 2.40 [Insert text ends] Multiple accrual rates for annual membership fees

¹ California Rules of Court, [proposed] Rule 9.24.[Insert text ends]

² Business and Professions Code section 494.5.[Insert text ends]

³ California Rules of Court, [proposed] Rule 9.24; Business and Professions Code section 494.5(f). [Insert text ends]

⁴ Business and Professions Code section 494.5(j).[Insert text ends]

If under these rules there is a conflict in the rate at which a member accrues fees, the active rate applies.

Rule [Deleted text begin] 2.37[Deleted text end] [Insert text begins] 2.45 [Insert text ends] Voluntary resignation

- (A) A member may tender a voluntary resignation from the State Bar of California if:
- (1) the member is not
 - (a) currently suspended from the practice of law as a result of the imposition of discipline by the California Supreme Court;
 - (b) currently subject to a period of probation or to conditions attached to a public or private reproof pursuant to discipline imposed by the State Bar Court or the California Supreme Court; or
 - (c) currently subject to the terms of an agreement in lieu of discipline that the member has entered into with the Office of the Chief Trial Counsel;
 - (2) the member does not currently have a disciplinary complaint, investigation or proceeding pending against him or her with any professional licensing agency in California or another jurisdiction;
 - (3) the member is neither currently charged with the commission of a felony or misdemeanor nor aware that he or she is the subject of a current criminal investigation or grand jury proceeding for the alleged commission of a felony or misdemeanor; and
 - (4) the member
 - (a) has never been convicted of a felony or misdemeanor listed in Business and Professions Code section 6068(o)(5);
 - (b) has been convicted of a felony or misdemeanor listed in Business and Professions Code section 6068(o)(5) and has been disciplined as a result of the conviction; or
 - (c) has been convicted of a felony or misdemeanor listed in Business and Professions Code section 6068(o)(5) but the related disciplinary proceeding was dismissed without the imposition of discipline.
- (B) A member who is eligible to tender his or her voluntary resignation pursuant to subsection (A) of this rule must complete and execute, under penalty of perjury, the voluntary resignation form approved by the Board of Trustees and submit the original of the form to the State Bar's Office of Member Services.

- (C) Upon tendering his or her voluntary resignation and until the California Supreme Court accepts or rejects the resignation, the member is immediately enrolled as an inactive member of the State Bar of California and is ineligible to practice law or claim in any way to be entitled to practice law.
- (D) A member's voluntary resignation is effective only when it is accepted by the California Supreme Court.
- (E) A false statement made by a member in tendering his or her voluntary resignation under this rule
 - (1) may result in an order of the Supreme Court denying or vacating the member's resignation;
 - (2) constitutes cause for disbarment or suspension; and
 - (3) may be punished as contempt or as a crime.