

AGENDA ITEM

54-132 May 10 2013

DATE: May 3, 2013

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

FROM: Peggy Van Horn, Chief Financial Officer
Ray Farrish, Finance Manager, Member Billing

SUBJECT: Recommendation to the Supreme Court of California for
Suspension of Licensees Delinquent in Payment of 2012 and
2013 State Bar Membership Fees, Penalties or Costs

EXECUTIVE SUMMARY

Pursuant to the provision of Business and Professions Code section 6143, the Board of Trustees, on an annual basis, recommends to the Supreme Court of California the suspension of licensees who have not fully paid State Bar membership fees, penalties or costs. This suspension recommendation is for membership years 2012 and 2013. Licensees who have not paid by July 1, 2013, will be suspended by the Supreme Court of California effective July 2, 2013. Board of Trustees with questions or concerns may contact Peggy Van Horn at (415) 538-2353 or peggy.vanhorn@calbar.ca.gov or Ray Farrish at (415) 538-2157 or raymond.farrish@calbar.ca.gov.

BACKGROUND

Business and Professions Code section 6143 states that “Any member, active or inactive, failing to pay any fees, penalties or costs after they become due, and after two months written notice of his or her delinquency, shall be suspended from membership in the State Bar. The member may be reinstated upon the payment of accrued fees or costs and such penalties as may be imposed by the board, not exceeding double the amount of delinquent dues, penalties or costs.”

This agenda item is the annual recommendation to the Board of Trustees and the Supreme Court of California for suspension of licensees who are delinquent in paying membership fees, penalties or costs for membership years 2012 and 2013.

DISCUSSION

Process and Notice

Outlined below is the process used by the State Bar during the 2013 billing cycle to collect State Bar membership fees and penalties, including any assessed costs for disciplinary proceedings pursuant to Business and Professions Code sections 6086.10 and 6140.7, and any assessed costs for reimbursement to the Client Security Fund pursuant to Business and Professions Code section 6140.5 (c).

- Licensees billed for 2012 fees on January 22, 2012 or later, who remain unpaid, are included in this year's suspension because their due date was the date of the 2012 Final Delinquent Notice (March 7, 2012) or after. These licensees received, in addition to fee statements sent approximately thirty (30) days after enrollment, all the 2013 notices as provided below.
- The first fee statement (the annual statement) was mailed on November 30, 2012. Information regarding penalties was printed on the 'Late Payment Penalties' portion of the fee statement.
- The "Final Delinquent Notice", as provided for by section 6143 of the Business and Professions Code, was mailed on March 8, 2013. This notice included the late payment penalty and advised that if fees, penalties or costs were not received within two months, the Board of Trustees would recommend to the Supreme Court of California that the attorney be suspended from the practice of law, effective July 2, 2013.

Additional Follow-Up

In addition to the foregoing notices, Member Billing technicians are placing courtesy calls and sending e-mail notices where possible. These outreach efforts serve to remind licensees of the deadlines and encourage payment of fees in order to avoid suspension. These calls are made on a staff-time-available basis and will continue to be placed through July 1, 2013.

FISCAL / PERSONNEL IMPACT:

There is no fiscal impact.

RULE AMENDMENTS:

This item has no impact on the rules of the State Bar.

BOARD BOOK IMPACT:

This item has no impact on the Board Book.

RECOMMENDATION

Staff recommends that the names of those licensees to be suspended from the practice of law in California for failing to pay State Bar membership fees, penalties or costs on or before July 1, 2013 be forwarded to the Supreme Court of California.

PROPOSED BOARD COMMITTEE RESOLUTION:

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

RESOLVED, that the Member Oversight Committee recommends that the Board hereby ascertains and determines:

- (a) that the Secretary or his designee has performed the ministerial function of determining that each person who is to be recommended to the Supreme Court of California for suspension for nonpayment of dues is a member of The State Bar of California;
- (b) that the Secretary or his designee has determined that each such person has failed to fully pay fees, penalties and/or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.3, 6140.35, 6140.5 (c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;
- (c) that the Secretary or his designee has sent to each such person at his or her address of record with the State Bar of California two months' written notice of his or her delinquency which included notice of section 6143 of the Business and Professions Code;
- (d) and recommends to the Supreme Court of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, effective July 2, 2013 until such time as he or she may be reinstated, upon the payment of the delinquent fees, penalties or costs and of such additional fees, penalties or costs as may have accrued at the time of such payment; and it is

FURTHER RESOLVED, that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary or his designee is authorized and directed to notify the Clerk of the Supreme Court of California of the name of any member of the State Bar who by proper remittance

(e.g., credit card accepted by the State Bar, cash, cashier's check, money order, bank certified check, or wire transfer) and prior to the effective date of the Supreme Court of California order of suspension based hereon, pays to the State Bar fees, penalties or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of California of the consequent withdrawal of the Board of Trustees' recommendation for suspension; and it is

FURTHER RESOLVED, that for the purpose of modifying the recommendation to the Supreme Court of California for suspension for nonpayment of fees, penalties, or costs, the Secretary or his designee is authorized and directed to change the data as to status or the amounts of delinquency of any member and to notify the Clerk of the Supreme Court of California accordingly of the consequent modification of the Board of Trustees' recommendation for suspension.

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 ascertains and determines:

- (a) that the Secretary or his designee has performed the ministerial function of determining that each person who is to be recommended to the Supreme Court of California for suspension for nonpayment of dues is a member of The State Bar of California;
- (b) that the Secretary or his designee has determined that each such person has failed to fully pay fees, penalties or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.3, 6140.35, 6140.5 (c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;
- (c) that the Secretary or his designee has sent to each such person at his or her address of record with the State Bar of California two months' written notice of his or her delinquency which included notice of section 6143 of the Business and Professions Code;
- (d) and hereby recommends to the Supreme Court of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, effective July 2, 2013, until such time as he or she may be reinstated, upon the payment of the delinquent fees, penalties or costs and of such additional fees, penalties or costs as may have accrued at the time of such payment; and it is

FURTHER RESOLVED, that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary or his designee is authorized and directed to notify the Clerk of the Supreme Court of California of the name of any member of the State Bar who by proper remittance (e.g., credit card accepted by the State Bar, cash, cashier's check, money order, bank certified check, or wire transfer) and prior to the effective date of the Supreme Court of California order of suspension based hereon, pays to the State Bar fees, penalties or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of California of the consequent withdrawal of the Board of Trustees' recommendation for suspension; and it is

FURTHER RESOLVED, that for the purpose of modifying the recommendation to the Supreme Court of California for suspension for nonpayment of fees, penalties or costs, the Secretary or his designee is authorized and directed to change the data as to status or the amounts of delinquency of any member and to notify the Clerk of the Supreme Court of California accordingly of the consequent modification of the Board of Trustees' recommendation for suspension.