

AGENDA ITEM

54-131 JUL 19 2013

DATE: July 8, 2013

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

FROM: Member Liaisons
Nancy Fineman
David Pasternak
David Torres

SUBJECT: Members' Requests for Adjustments to Fees and 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. Rule 2.16 (C) specifies three 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 circumstances are that 1) the member serves full-time as a magistrate, commissioner, or referee for a state or federal court of record, 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, or 3) the member's total gross annual household income from all sources is \$20,000 or less, in which case the waiver is 50% of the annual membership fees.

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.

Julie Aston (#41989) Admitted June 19, 1968. Current status is Active. Member's fees are paid in full. Member requests a waiver of \$200. Member was randomly selected for an audit of her 2012 scaled fees, the billing department determined that she did not meet the income requirements and required her to repay the \$100 reduction and assessed her a \$100 penalty. Member's request is based on financial hardship. Member has not received a waiver in the past. Member has submitted a statement and supporting documentation.

Renee Baum (#26675) Admitted January 10, 1956. Current status is Active. Member's current balance is \$202.50. Member requests the scaled rate for 2013 and a waiver of the \$100 late payment penalty. Member's request is based on her claim that she mailed her payment by the February 1 deadline. Member has not received a waiver in the past 5 years. Member has submitted a statement.

Mark S. Collins (#60849) Admitted December 18, 1974. Current status is Active. Member's current balance is \$585. Member requests a waiver of his 2013 licensing fees and late payment penalty as well as a waiver of all future licensing fees. Member's request is based on medical hardship. Member has received 5 hardship waivers in the past 5 years. Member has submitted a statement and supporting documentation.

Howard A. Emmer (#102675) Admitted June 10, 1982. Current status is Inactive. Member has a balance of \$385. Request is made by member's wife on his behalf. Member requests a waiver of his current balance, which represents the difference between the Active and Inactive license fees, along with the \$100 late payment penalty. Request is based on financial and medical hardship. Member has not received a waiver in the past 5 years. Member has submitted a statement and supporting documentation.

Nathaniel Glover (#90663) Admitted November 30, 1979. Current status is Active. Member's current balance is \$100. Member requests a waiver of the 2013 late payment penalty. Member's request is based on medical hardship. Member has not received a hardship waiver in the past. Member has submitted a statement.

Daniel J. Goodstein (#97579) Admitted May 29, 1981. Current status is Active. Member's current adjusted balance is \$175. Member requests a waiver of his current balance. Member's request is based on financial and medical hardship. Member has received 5 hardship waivers in the past 5 years. Member has submitted a statement

Mark Jay Hanson (#277323) Admitted June 28, 2011. Current status is Active. Member's current balance is \$510. Member requests the Inactive rate for 2013. Member's request is based on financial hardship. Member has not received a waiver in the past 5 years. Member has submitted a statement and a financial declaration

Karen Valerie Jampolsky (#179297) Admitted December 4, 1995. Current status is Active. Member's current balance is \$510. Member requests a waiver of her 2013 licensing fees and late payment penalty. Member's request is based on financial hardship. Member has received 1 hardship waiver in the past 5 years. Member has submitted a statement and a financial declaration.

Scott Kaplan (#188920) Admitted June 3, 1997. Current status is Active. Member's current balance is \$510. Member requests a waiver of the 2013 licensing fees and late payment penalty. Member's request is based on financial hardship. Member has received 4 waivers in the past 5 years. Member has submitted a statement and a financial declaration.

Melodie Kleiman (#51065) Admitted January 5, 1974. Current status is Active. Member's current balance is \$202.50. Member requests late fee scaling and a waiver of the \$100 late payment penalty. Member's request is based on financial hardship and her claim that she attempted to pay online but was unable to complete her transaction. Member has not received a waiver in the past 5 years. Member has submitted a statement, a financial declaration and supporting documentation.

Serge Kohan (#229605) Admitted December 26, 2003. Current status is Inactive. Member's current balance is \$155. Request is made by member's spouse on his behalf. Member requests a waiver of his outstanding balance. Member's request is based on financial and medical hardship. Member has received a waiver in 4 of the past 5 years. Member has submitted a statement and a financial declaration.

Glen Patterson (#87562) Admitted October 22, 1979. Current status is Inactive. Member's current balance is \$155. Member requests a waiver of the 2013 licensing fees and late payment penalty. Member's request is based on financial hardship. Member has received 5 waivers in the past 5 years. Member has submitted statements, a financial declaration, and supporting documentation.

Michael Richmond (#211164) Admitted December 7, 2000. Current status is Active. Member has a balance of \$510. Member requests a waiver of his 2013 licensing fees and late payment penalty. Request is based on financial and medical hardship. Member has not received a waiver in the past 5 years. Member has submitted a statement, a financial declaration and supporting documentation.

Donna Rueppell (#203186) Admitted December 2, 1999. Current status is Inactive. Member's current balance is \$385. Member requests the Inactive rate for 2013. Member's request is based on financial hardship. Member has not received a waiver in the past 5 years. Member has submitted a statement and a financial declaration.

Deborah Sandlaufer (#158810) Admitted June 8, 1992. Current status is Inactive. Member's current balance is \$355. Member requests the Inactive rate for 2013. Member's request is based on medical hardship. Member has not received a waiver in the past 5 years. Member has submitted a statement and supporting documentation.

Robert Schuster (#75009) Admitted June 28, 1977. Current status is Active. Member's current balance is \$510. Member requests the Inactive billing rate for 2013. Member's request is based on his age and the fact that he was unaware that he had to change his status to Inactive by February 1 in order to pay the Inactive billing rate. Member has received 1 waiver in the past 5 years. Member has submitted a statement.

Stephen Tropp (#119325) Admitted December 10, 1985. Current status is Active. Member has a balance of \$510. Member requests an extension of time to pay his 2013 licensing fees and late payment penalty. Member's request is based on financial and medical hardship. Member has received 1 hardship waiver in the past 5 years. Member has submitted a statement and financial declaration.

FISCAL / PERSONNEL IMPACT:

This is the second Membership Liaisons recommendation submitted for membership year 2013. This item contains 17 recommendations. If the recommended adjustments below are approved, the fiscal impact will be \$5,505, bringing the year to date total to \$19,595.

RULE AMENDMENTS:

There are no rule amendments

BOARD BOOK IMPACT:

There is no impact on the Board Book

RECOMMENDATION

The Membership Liaisons believe there is good cause to grant the following fee adjustments as discussed above.

Julie Aston (#41989) State Bar grants member a waiver in the amount of \$200

Renee Baum (#26675) State Bar grants member the scaled rate for 2013 and a waiver of the \$100 late payment penalty, for a total waiver of \$202.50

Mark S. Collins (#60849) State Bar grants member a waiver of his 2013 licensing fees in the amount of \$510, contingent upon his transfer to Inactive status

Howard A. Emmer (#102675) State Bar grants member a waiver of the remaining balance of his 2013 licensing fees, in the amount of \$385

Nathaniel Glover (#90663) State Bar grants member a waiver of the 2013 \$100 late payment penalty

Daniel Goodstein (#97579) State Bar grants member a waiver of the remaining balance of his 2013 licensing fees, in the amount of \$175

Mark Jay Hanson (#277323) State Bar allows member to pay the Inactive rate for 2013, contingent upon his transferring to Inactive status, for a total waiver of \$385

Karen Valerie Jampolsky (#179297) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$510

Scott Kaplan (#188920) State Bar grants member a 50% waiver of his 2013 licensing fees and late payment penalty in the amount of \$255

Melodie Kleiman (#51065) State Bar grants member the scaled rate for 2013 and a waiver of the \$100 late payment penalty, for a total waiver of \$202.50

Serge Kohan (#229605) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$155

Glen Patterson (#87562) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$155

Michael Richmond (#211164) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$510, contingent upon his transferring to Inactive status

Donna Rueppell (#203186) State Bar grants member a waiver of the remaining balance of her 2013 licensing fees and late payment penalty in the amount of \$385

Deborah Sandlaufer (#158810) State Bar grants member a waiver of the remaining balance of her 2013 licensing fees and late payment penalty in the amount of \$355

Robert Schuster (#75009) State Bar grants member the Inactive billing rate for 2013 and waives the late payment penalty for a total waiver of \$510

Stephen Tropp (#119325) State Bar grants member a 6 month extension of time to pay his 2013 licensing fees and late payment penalty, in the amount of \$510

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:

Julie Aston (#41989) State Bar grants member a waiver in the amount of \$200

Renee Baum (#26675) State Bar grants member the scaled rate for 2013 and a waiver of the \$100 late payment penalty, for a total waiver of \$202.50

Mark S. Collins (#60849) State Bar grants member a waiver of his 2013 licensing fees in the amount of \$510, contingent upon his transfer to Inactive status

Howard A. Emmer (#102675) State Bar grants member a waiver of the remaining balance of his 2013 licensing fees, in the amount of \$385

Nathaniel Glover (#90663) State Bar grants member a waiver of the 2013 \$100 late payment penalty

Daniel Goodstein (#97579) State Bar grants member a waiver of the remaining balance of his 2013 licensing fees, in the amount of \$175

Mark Jay Hanson (#277323) State Bar allows member to pay the Inactive rate for 2013, contingent upon his transferring to Inactive status, for a total waiver of \$385

Karen Valerie Jampolsky (#179297) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$510

Scott Kaplan (#188920) State Bar grants member a 50% waiver of his 2013 licensing fees and late payment penalty in the amount of \$255

Melodie Kleiman (#51065) State Bar grants member the scaled rate for 2013 and a waiver of the \$100 late payment penalty, for a total waiver of \$202.50

Serge Kohan (#229605) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$155

Glen Patterson (#87562) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$155

Michael Richmond (#211164) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$510, contingent upon his transferring to Inactive status

Donna Rueppell (#203186) State Bar grants member a waiver of the remaining balance of her 2013 licensing fees and late payment penalty in the amount of \$385

Deborah Sandlaufer (#158810) State Bar grants member a waiver of the remaining balance of her 2013 licensing fees and late payment penalty in the amount of \$355

Robert Schuster (#75009) State Bar grants member the Inactive billing rate for 2013 and waives the late payment penalty for a total waiver of \$510

Stephen Tropp (#119325) State Bar grants member a 6 month extension of time to pay his 2013 licensing fees and late payment penalty, in the amount of \$510

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:

Julie Aston (#41989) State Bar grants member a waiver in the amount of \$200

Renee Baum (#26675) State Bar grants member the scaled rate for 2013 and a waiver of the \$100 late payment penalty, for a total waiver of \$202.50

Mark S. Collins (#60849) State Bar grants member a waiver of his 2013 licensing fees in the amount of \$510, contingent upon his transfer to Inactive status

Howard A. Emmer (#102675) State Bar grants member a waiver of the remaining balance of his 2013 licensing fees, in the amount of \$385

Nathaniel Glover (#90663) State Bar grants member a waiver of the 2013 \$100 late payment penalty

Daniel Goodstein (#97579) State Bar grants member a waiver of the remaining balance of his 2013 licensing fees, in the amount of \$175

Mark Jay Hanson (#277323) State Bar allows member to pay the Inactive rate for 2013, contingent upon his transferring to Inactive status, for a total waiver of \$385

Karen Valerie Jampolsky (#179297) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$510

Scott Kaplan (#188920) State Bar grants member a 50% waiver of his 2013 licensing fees and late payment penalty in the amount of \$255

Melodie Kleiman (#51065) State Bar grants member the scaled rate for 2013 and a waiver of the \$100 late payment penalty, for a total waiver of \$202.50

Serge Kohan (#229605) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$155

Glen Patterson (#87562) State Bar grants member a waiver of his 2013 licensing fees and late payment penalty in the amount of \$155

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Robert Schuster (#75009) State Bar grants member the Inactive billing rate for 2013 and waives the late payment penalty for a total waiver of \$510

Stephen Tropp (#119325) State Bar grants member a 6 month extension of time to pay his 2013 licensing fees and late payment penalty, in the amount of \$510