

AGENDA ITEM

DATE: July 5, 2013

TO: Members, Regulation, Admissions and Discipline Oversight
Members, Board of Trustees

FROM: Jayne Kim, Chief Trial Counsel

SUBJECT: Modification of Board Policy Regarding Posting of Consumer Alerts – Request for Release for Public Comment

EXECUTIVE SUMMARY

The State Bar's existing policy authorizes the posting of a Consumer Alert on a member's State Bar online profile page under two circumstances: (1) where the State Bar has filed a notice of disciplinary charges ("NDC") or petition for involuntary inactive enrollment, pursuant to Business and Professions Code section 6007(c), alleging either a misappropriation of \$25,000 or more of client funds and (2) where the State Bar has filed a NDC or petition for involuntary inactive enrollment, pursuant to Business and Professions Code section 6007(c), alleging 15 or more cases of loan modification misconduct. Under the existing policy, the Consumer Alert, informational text and disclaimer is removed from the member's profile page immediately upon the filing of a decision or order of the State Bar Court adjudicating the disciplinary proceeding, which is subsequently posted on the member's State Bar online profile page.

This agenda item seeks modification of the State Bar's existing policy to authorize the posting of a Consumer Alert: (1) where the NDC or petition for involuntary enrollment alleges any misappropriation of \$25,000 or more (i.e. not limited to theft of client funds); (2) where the NDC or petition for involuntary enrollment alleges 15 or more cases of professional misconduct (i.e. not limited to loan modification misconduct); and (3) where the State Bar has filed an application seeking superior court assumption of an attorney's law practice, pursuant to Business and Professions Code section 6180 *et. seq.* or 6190 *et. seq.* The agenda item further seeks authorization to keep the Consumer Alert on the member's State Bar online profile page where the State Bar Court finds the member culpable of professional misconduct or grants the State Bar's petition for involuntary inactive enrollment or where the superior court grants the State Bar's application for court assumption of the member's law practice.

BACKGROUND

In July 2008, upon recommendation by the Board Committee on Regulation, Admissions and Discipline Oversight (“RAD”), the Board of Trustees of the State Bar of California, formerly the Board of Governors (“Board”) first approved and adopted the State Bar’s policy of posting public NDCs on the attorney profile page of the State Bar’s website. In March 2013, the Board of Trustees approved modification authorizing the more immediate posting of NDCs upon public filing of the NDC in State Bar Court.

Pursuant to existing policy, the State Bar posts both the NDC and responsive pleading (if filed) on an attorney’s profile page where they remain until the State Bar Court files and posts a decision or order adjudicating the proceedings. Where the State Bar Court’s decision or order includes a finding of professional misconduct, the initial and responsive pleadings are removed from the profile page and replaced with the State Bar Court’s decision or order. Where the State Bar Court dismisses the proceedings without any finding of professional misconduct, its decision or order is posted and remains on the profile page for a period of 60 days, along with the initial and responsive pleadings, unless the attorney requests earlier removal of those documents. Whenever the State Bar posts a NDC, it also provides notice to the public that the attorney is presumed innocent of the allegations in a NDC unless and until State Bar Court files a decision or order approving a stipulated disposition, finding that one or more charges of misconduct have been established by clear and convincing evidence.

In May 2011, upon recommendation by RAD, the Board approved the State Bar’s existing policy authorizing the posting of a Consumer Alert where the State Bar filed formal charges alleging misappropriation of client funds in the amount of \$25,000 or more. In July 2011, upon recommendation by RAD, the Board approved expanding the use of Consumer Alerts by authorizing the posting of a Consumer Alert where the State Bar filed 15 or more cases involving allegations of loan modification misconduct. In both instances, the Board determined that public allegations of major misappropriation and filing of multiple loan modification cases warranted stronger public protection measures than provided by the mere posting of NDCs.

Under the existing Consumer Alert policies, the State Bar removes the Consumer Alert, informational text and disclaimer from the attorney profile page immediately upon the filing of a decision or order of the State Bar Court adjudicating the disciplinary proceeding. The State Bar Court decision or order is posted online and the NDC and responsive pleading are removed as described above.

In May 2013, consistent with the State Bar’s primary mission to protect the public from unethical attorneys, the Office of Chief Trial Counsel (“OCTC) sought Board approval to expand the State Bar’s Consumer Alert policy and allow the posting of a Consumer Alert after any public filing of formal charges in State Bar Court alleging professional misconduct by an attorney. OCTC also sought expansion and approval to post a Consumer Alert after public filing of an application for assumption of an attorney’s law practice in superior court. Pursuant to RAD discussion, which included

consideration of public comment, the agenda item was continued for further consideration.

ISSUE

Whether RAD should authorize circulation of the proposed modification to the State Bar's Policy Re Posting of Consumer Alerts, hereto attached as Attachment A, for a 60-day period of public comment.

CONCLUSION

RAD should authorize staff to circulate the proposed Modification to the State Bar's Policy Re Posting of Consumer Alerts, hereto attached as Attachment A, for a 60-day period of public comment.

DISCUSSION

Consistent with its mission to protect the public, in 2008 and 2011, the Board authorized the posting of NDCs and certain Consumer Alerts on the State Bar's online attorney profile pages. In addition, in 2011, the California Legislature statutorily mandated renewed focus on public protection by enacting Business and Professions Code section 6001.1, which states as follows:

Protection of the public shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Although prior Board action has allowed greater and more immediate public access to the State Bar's public records and proceedings, OCTC has identified certain gaps in the existing Consumer Alert policy, as follows:

- The existing policy limits Consumer Alerts to misappropriation allegations involving only client funds. The policy does not contemplate misappropriation allegations involving other types of entrusted funds.
- The existing policy limits Consumer Alerts to allegations involving multiple cases (15 cases or more) only if the attorney's practice area involved loan modification misconduct. The policy does not contemplate multiple case allegations involving other practice areas.
- The existing policy provides no notification to the public where the State Bar has initiated proceedings before the superior court to assume jurisdiction over an attorney's law practice.
- The existing policy requires the State Bar to remove the Consumer Alerts after the State Bar Court has found the attorney culpable of professional misconduct.

For these reasons, OCTC requests authorization to release for public comment the proposed modification of the State Bar's Consumer Alert policy, as provided in Attachment A. The proposed modification is not only harmonious with prior Board action but will further the State Bar's primary mission to protect the public.

Current Policy for Major Misappropriation Cases

The existing policy limits the use of Consumer Alerts to formal charges involving the misappropriation of client funds, requiring that the attorney's misconduct occur during the practice of law. The California Supreme Court and State Bar Court, however, have long recognized that a licensed California attorney must adhere to his fiduciary duties regardless of whether he is performing during the practice of law. "An attorney who accepts the responsibility of a fiduciary nature is held to the high standards of the legal profession whether or not he acts in his capacity of an attorney. (*Worth v. State Bar* (1976) 17 Cal.3d 337, 341; see also *Ridge v. State Bar* (1989) 47 Cal.3d 952, 961.)

California attorneys may be disciplined for misappropriating entrusted funds, not limited to funds held in trust for a client. The existing limitation of the State Bar's Consumer Alert policy, therefore, should be modified to authorize the posting of a Consumer Alert where the State Bar has filed allegations involving the misappropriation of \$25,000 or more of entrusted funds.

The existing policy – limited to cases involving the misappropriation of client funds – is as follows:

1. Contemporaneously with posting online a notice of disciplinary charges which includes a charge of misappropriation involving \$25,000 or more of client funds, whether as a single charge or an aggregate of charges, the State Bar posts a Consumer Alert above the respondent member's name, including informational text and disclaimer, on the member's profile page.
2. Upon the filing of a decision or order of the State Bar Court adjudicating the disciplinary proceeding, the Consumer Alert, informational text and disclaimer is removed from the member's profile page immediately.
3. The State Bar Court posts a true and correct copy of a petition filed pursuant to Business & Professions Code section 6007(c)[threat of harm] to enroll a member involuntarily inactive on the respondent member's profile page when the verified application upon which the petition is based relies on, in whole or part, misappropriation of client funds involving \$25,000 or more, whether as a single charge or an aggregate of charges, and a true and correct copy of any response.
4. Contemporaneously with the posting of a filed petition under Business and Professions Code section 6007(c), which meets the criteria set forth in paragraph number 3 above, the State Bar posts a Consumer Alert above the member's name, including informational text and disclaimer. That text is modified to relate to the filing of

a petition rather than a notice of disciplinary charges on the respondent's member profile page.

5. Upon the filing of a decision or order of the State Bar Court adjudicating the Business & Professions Code section 6007(c) petition, the Consumer Alert, informational text and disclaimer is removed from the member's profile page immediately.

Current Policy for Loan Modification Cases

The existing policy limits the use of Consumer Alerts to formal charges involving 15 or more cases alleging loan modification misconduct. The Board approved this policy in 2011, after the State Bar experienced an increase of complaints against attorneys suspected of engaging in loan modification misconduct. In adopting the existing policy, the Board recognized that lawyers engaged in multiple cases of professional misconduct are not only a danger to the public but also put significant strain on the discipline system and the Client Security Fund.

As detailed in the July 122 Agenda Item to RAD, State Bar investigations revealed a variety of schemes involving attorneys engaged in loan modification misconduct and demonstrated that attorneys involved in fraudulent schemes often accumulate a multitude of complaints involving similar acts of misconduct. In developing the criteria for this Consumer Alert policy, the Board considered that a monetary threshold was less meaningful than the volume of complaints. Loan modification outfits often charged nominal fees or fees under \$5,000 and used a business model involving mass scale advertisement and call center solicitation.

Fraudulent schemes, however, continue to morph and develop over time and the same public protection concerns exist where the State Bar has filed formal charges against an attorney in multiple cases regardless of whether that attorney performed loan modification, immigration, criminal defense, bankruptcy, debt consolidation, or other legal services. The existing limitation of the State Bar's Consumer Alert policy, therefore, should be modified to authorize the posting of a Consumer Alert where the State Bar has filed allegations involving 15 or more cases of professional misconduct against an attorney.

The existing policy – limited to cases involving the loan modification misconduct – is as follows:

1. Contemporaneously with posting online a notice of disciplinary charges that includes 15 or more cases of loan modification misconduct, the State Bar posts a Consumer Alert above the respondent member's name, including informational text and disclaimer, on the member's profile page.

2. Upon the filing of a decision or order of the State Bar Court adjudicating the disciplinary proceeding, the Consumer Alert, informational text and disclaimer is removed from the member's profile page immediately.

3. The State Bar Court posts a true and correct copy of a petition filed pursuant to Business and Professions Code section 6007(c)[threat of harm] to enroll a member involuntarily inactive on the member's profile page when the verified application upon which the petition is based relies on, in whole or part, loan modification misconduct, and a true and correct copy of any response.

4. Upon the posting of a State Bar Court decision or order adjudicating the petition, assuming that the petition is granted, the petition and response are removed from the website. In the event of denial of petition or dismissal of the proceeding, the decision or order is posted but the petition and response also remain posted for a period of 60 days, after which all three items relating to the proceeding (petition, response if any, and decision or order) are removed from the member's page.

5. Contemporaneously with the posting of a filed petition under Business & Professions Code section 6007(c), which meets the criteria set forth in paragraph number 3 above, the State Bar posts a Consumer Alert above the member's name, including informational text and disclaimer. That text is modified to relate to the filing of a petition rather than a notice of disciplinary charges on the member's profile page.

6. Upon the filing of a decision or order of the State Bar Court adjudicating the Business & Professions Code section 6007(c) petition, the Consumer Alert, informational text and disclaimer is removed from the member's profile page immediately.

Current Lack of Policy Re Assumption of a Law Practice

The current policy fails to contemplate public proceedings initiated by the State Bar in superior court, pursuant to Business and Professions Code sections 6180 and 6190, wherein the State Bar has made an application to the superior court for assumption by the court of jurisdiction over the law practice of a license California attorney. Although section 6180 and 6190 proceedings do not always involve related disciplinary proceedings, alerting consumers of these public proceedings serves an important public protection purpose.

Pursuant to Business and Professions Code section 6180 *et seq.*, the State Bar will file an application seeking court assumption of a law practice where an attorney has died, resigned, become inactive, been disbarred or suspended and has either left an unfinished client matter for which no other active member has agreed to assume with consent of the client or there is a belief that the interests of one of more clients or interested persons will be prejudiced if the proceeding is not maintained.

Pursuant to Business and Professions Code section 6190 *et seq.*, the State Bar will file an application seeking court assumption of a law practice where an attorney has, for any reason, become incapable of devoting the time and attention to, and providing the quality of service for, his or her law practice which is necessary to protect the interest of a client if there is an unfinished matter for which no other active member has agreed to assume responsibility with the consent of the client.

The current policy should be modified to authorize the posting of a Consumer Alert where the State Bar has initiated public proceedings in superior court, whether pursuant to Business and Professions Code sections 6180 *et. seq.* or 6190 *et. seq.* Currently, there is no public notice available on the State Bar's website where the State Bar has initiated such proceedings seeking superior court assumption of the attorney's law practice.

Current Policy Re Removal of Consumer Alert

The existing policy requires the State Bar to remove the Consumer Alert, informational text and disclaimer from the attorney's profile page upon the filing of a decision or order of the State Bar Court adjudicating the proceedings – even if the State Bar Court has found the attorney culpable of professional conduct or grants the State Bar's petition, pursuant to Business and Professions Code section 6007c. In such cases, the State Bar posts the State Bar Court decision or order on the attorney's profile page when it removes the Consumer Alert.

Given the purpose of a Consumer Alert – to provide heightened public protection measures based upon the seriousness of the alleged misconduct – the State Bar should maintain a Consumer Alert on the attorney's profile page where the State Bar Court files a decision or order finding the attorney culpable of professional conduct or grants the State Bar's petition, pursuant to Business and Professions Code section 6007c.

Consistent with the purpose of providing Consumer Alerts to the public, the existing policy should be further modified to allow posting of a Consumer Alert in any disciplinary proceeding where the State Bar Court has found the attorney culpable of professional misconduct, grants the State Bar's petition, pursuant to Business and Professions Code section 6007c, not limited to those cases involving major misappropriation or consolidated matters of 15 or more cases, or when the superior court grants the State Bar's application under Business and Professions Code sections 6180 or 6190 to assume jurisdiction of a law practice.

Current Consumer Alert Language

The Consumer Alert language for both major misappropriation and loan modification cases is similar and, generally, as follows:

CONSUMER ALERT: The State Bar of California has filed disciplinary charges against this attorney alleging 15 or more cases of loan

modification misconduct. Loan modification misconduct is a serious disciplinary offense prosecuted by the State Bar.

DISCLAIMER: Any Notice of Disciplinary Charges filed by the State Bar contains only allegations of professional misconduct. The attorney is presumed to be innocent of any misconduct warranting discipline until the charges have been proven.

The first hyperlink (shown as underlined text above) would link to the Disciplinary and Related Actions section of a member's profile page. The second hyperlink would open a "pop up" to provide a brief explanation of loan modification misconduct by attorneys generally. Consumer Alerts for major misappropriation cases would contain a hyperlink "pop up" regarding misappropriation misconduct.

Proposed Consumer Alert Language

For consistency and efficiency, the proposed modification to the State Bar's Consumer Alert policy provides for a more uniform approach to the posting of Consumer Alerts. The hyperlinks (shown as underlined text below) would link to the posted documents in the Disciplinary and Related Actions section of a member's profile page.

Disciplinary Proceedings

Contemporaneously with the posting of a NDC or petition pursuant to Business and Professions Code section 6007, involving the alleged misappropriation of \$25,000 or more or involving 15 or more disciplinary proceedings, the Consumer Alert should state as follows:

CONSUMER ALERT: The State Bar of California has filed formal proceedings against this attorney. Pursuant to State Bar policy, a copy of the State Bar's initiating document and the attorney's response, if filed, will remain posted in the Disciplinary and Related Actions section below until the proceedings have been adjudicated. Upon the filing of a court order or decision adjudicating the proceedings, that court order or decision will be posted in place of the initiating and responsive pleadings.

DISCLAIMER: Any Notice of Disciplinary Charges or petition, pursuant to Business and Professions Code section 6007c, filed by the State Bar contains only allegations of professional misconduct. The attorney is presumed to be innocent of the allegations unless the State Bar Court finds the attorney culpable or grants the State Bar's petition.

Contemporaneously with the posting of a public order or decision by the State Bar Court finding an attorney culpable of any professional misconduct or granting a petition, pursuant to Business and Professions Code section 6007c, a Consumer Alert should be posted to state as follows:

CONSUMER ALERT: The State Bar Court has filed an order or decision finding the attorney culpable of professional misconduct or granting the State Bar's petition, pursuant Business and Professions Code section 6007c.

This Consumer Alert based upon public court order or decision is not limited to misappropriation or consolidated cases and would replace any earlier Consumer Alert posted based upon the filing of such allegations.

Superior Court Proceedings

Contemporaneously with the posting of an application for assumption of an attorney's law practice, pursuant to Business and Professions Code section 6180 *et. seq.*, the Consumer Alert should state as follows:

CONSUMER ALERT: The State Bar of California has initiated formal proceedings in superior court alleging that this attorney has died, resigned, become inactive, been disbarred or suspended and has either left an unfinished client matter for which no other active member has agreed to assume responsibility with consent of the client or there is a belief that the interests of one of more clients or interested persons will be prejudiced if the proceeding is not maintained.

Any application filed by the State Bar, pursuant to Business and Professions Code section 6180 *et. seq.*, contains only allegations that superior court assumption of the attorney's law practice is warranted. Pursuant to State Bar policy, a copy of the State Bar's initiating document and the attorney's response, if filed, will remain posted in the Disciplinary and Related Actions section below until the proceedings have been adjudicated. Upon the filing of a court order or decision adjudicating the proceedings, that court order or decision will be posted in place of the initiating and responsive pleadings.

Contemporaneously with the posting of an order or decision by the Superior Court granting the State Bar's application to assume jurisdiction of an attorney's law practice, the Consumer Alert should be replaced with language as follows:

CONSUMER ALERT: The Superior Court has filed an order or decision assuming jurisdiction of the attorney's law practice, pursuant to Business and Professions Code section 6180 *et. seq.* If you have questions related to this law practice, please contact the State Bar's Complaint Hotline 1-800-842-9053.

Contemporaneously with the posting of an application for assumption of an attorney's law practice, pursuant to Business and Professions Code section 6190 *et. seq.*, the Consumer Alert should state as follows:

CONSUMER ALERT: The State Bar of California has initiated formal proceedings in superior court alleging that this attorney has become incapable of devoting the time and attention to, and providing the quality of service for, the attorney's law practice which is necessary to protect the interest of a client if there is an unfinished matter for which no other active member has agreed to assume responsibility with the consent of the client.

Any application filed by the State Bar, pursuant to Business and Professions Code section 6190 *et. seq.*, contains only allegations that superior court assumption of the attorney's law practice is warranted. Pursuant to State Bar policy, a copy of the State Bar's initiating document and the attorney's response, if filed, will remain posted in the Disciplinary and Related Actions section below until the proceedings have been adjudicated. Upon the filing of a court order or decision adjudicating the proceedings, that court order or decision will be posted in place of the initiating and responsive pleadings.

Contemporaneously with the posting of an order or decision by the Superior Court granting the State Bar's application to assume jurisdiction of an attorney's law practice, the Consumer Alert should be replaced with language as follows:

CONSUMER ALERT: The Superior Court has filed an order or decision assuming jurisdiction of the attorney's law practice, pursuant to Business and Professions Code section 6190 *et. seq.* If you have questions related to this law practice, please contact the State Bar's Complaint Hotline 1-800-842-9053.

FISCAL / PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

None.

BOARD BOOK IMPACT:

None.

RECOMMENDATION

OCTC recommends that RAD authorize staff to circulate, for a 60-day period of public comment, the proposed modification to the State Bar's policy regarding the posting of consumer alerts on the State Bar's website, as set forth herein in Attachment A.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Regulation, Admissions and Discipline Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Regulation, Admissions and Discipline Oversight Committee authorize staff to make available, for public comment period of 60 days, the proposed modification to the State Bar's policy regarding the posting of consumer alerts on the State Bar's website, as set forth herein in Attachment A.

FURTHER RESOLVED, that this authorization for release from public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.

ATTACHMENT A

[PROPOSED]

STATE BAR POLICY REGARDING POSTING OF CONSUMER ALERTS

The State Bar shall post a Consumer Alert on an attorney's online State Bar profile page where the State Bar has initiated proceedings in superior court seeking the assumption of an attorney's law practice or where the State Bar has initiated proceedings in State Bar Court involving either allegations of misappropriation in the amount of \$25,000 or more – whether as a single charge or an aggregate of charges – or allegations of professional misconduct in 15 or more cases.

Where the State Bar has initiated proceedings in State Bar Court, as described above, the State Bar shall post a Consumer Alert as follows:

1. Contemporaneously with the online posting of a filed Notice of Disciplinary Charges (“NDC”) or filed petition under Business and Professions Code section 6007(c), the State Bar will post a Consumer Alert above the respondent member's name, which shall include the following informational text and disclaimer language:

CONSUMER ALERT: The State Bar of California has filed formal proceedings against this attorney. Pursuant to State Bar policy, a copy of the State Bar's initiating document and the attorney's response, if filed, will remain posted in the Disciplinary and Related Actions section below until the proceedings have been adjudicated. Upon the filing of a court decision or order adjudicating the proceedings, that court decision or order will be posted in place of the initiating and responsive pleadings.

DISCLAIMER: Any Notice of Disciplinary Charges or petition, pursuant to Business and Professions Code section 6007c, filed by the State Bar contains only allegations of professional misconduct. The attorney is presumed to be innocent of the allegations unless the State Bar Court finds the attorney culpable or grants the State Bar's petition.

2. Contemporaneously with the online posting of any filed court decision or order finding the attorney culpable of one or more acts of professional misconduct as alleged or granting the State Bar's petition under Business and Professions Code section 6007(c), the State Bar will post a Consumer Alert above the respondent member's name, which shall include the following informational text and disclaimer language and, if applicable, replace the pre-existing Consumer Alert notifying the public about the filing of allegations against the attorney:

CONSUMER ALERT: The State Bar Court has filed an order or decision finding the attorney culpable of professional misconduct or granting the State Bar's petition, pursuant Business and Professions Code section 6007c.

3. Contemporaneously with the online posting of a filed court decision or order dismissing the proceedings in its entirety, the State Bar shall immediately remove any posted Consumer Alert, informational text and disclaimer from the member's profile page.

Where the State Bar has initiated proceedings in Superior Court, pursuant to Business and Professions Code section 6180 *et. seq.*, the State Bar shall post a Consumer Alert as follows:

4. Contemporaneously with the online posting of a filed application under Business and Professions Code section 6180 *et. seq.*, the State Bar will post a Consumer Alert above the respondent member's name, which shall include the following informational text and disclaimer language:

CONSUMER ALERT: The State Bar of California has initiated formal proceedings in superior court alleging that this attorney has died, resigned, become inactive, been disbarred or suspended and has either left an unfinished client matter for which no other active member has agreed to assume responsibility with consent of the client or there is a belief that the interests of one of more clients or interested persons will be prejudiced if the proceeding is not maintained.

Any application filed by the State Bar, pursuant to Business and Professions Code section 6180 *et. seq.*, contains only allegations that superior court assumption of the attorney's law practice is warranted. Pursuant to State Bar policy, a copy of the State Bar's initiating document and the attorney's response, if filed, will remain posted in the Disciplinary and Related Actions section below until the proceedings have been adjudicated. Upon the filing of a court order or decision adjudicating the proceedings, that court order or decision will be posted in place of the initiating and responsive pleadings.

5. Contemporaneously with the online posting of a filed superior court decision or order granting the State Bar's application under Business and Professions Code section 6180 *et. seq.*, the State Bar will remove the online posting of the initiating document and any response filed by the attorney and shall replace the Consumer Alert language with the following: .

CONSUMER ALERT: The Superior Court has filed an order or decision assuming jurisdiction of the attorney's law practice, pursuant to Business and Professions Code section 6180 *et. seq.* If you have questions related to this law practice, please contact the State Bar's Complaint Hotline 1-800-842-9053.

6. Contemporaneously with the posting of an application for assumption of an attorney's law practice, pursuant to Business and Professions Code section 6190 *et. seq.*, the Consumer Alert should state as follows:

CONSUMER ALERT: The State Bar of California has initiated formal proceedings in superior court alleging that this attorney has become incapable of devoting the time and attention to, and providing the quality of service for, the attorney's law practice which is necessary to protect the interest of a client if there is an unfinished matter for which no other active member has agreed to assume responsibility with the consent of the client.

Any application filed by the State Bar, pursuant to Business and Professions Code section 6190 *et. seq.*, contains only allegations that superior court assumption of the attorney's law practice is warranted. Pursuant to State Bar policy, a copy of the State Bar's initiating document and the attorney's response, if filed, will remain posted in the Disciplinary and Related Actions section below until the proceedings have been adjudicated. Upon the filing of a court order or decision adjudicating the proceedings, that court order or decision will be posted in place of the initiating and responsive pleadings.

7. Contemporaneously with the posting of an order or decision by the Superior Court granting the State Bar's application to assume jurisdiction of an attorney's law practice, the Consumer Alert should be replaced with language as follows:

CONSUMER ALERT: The Superior Court has filed an order or decision assuming jurisdiction of the attorney's law practice, pursuant to Business and Professions Code section 6190 *et. seq.* If you have questions related to this law practice, please contact the State Bar's Complaint Hotline 1-800-842-9053.

8. Contemporaneously with the online posting of a filed court order terminating section 6180 *et seq.* or 6190 *et. seq.* proceedings, the State Bar shall immediately remove the Consumer Alert, informational text and disclaimer from the member's profile page.

9. This policy is intended to replace any previous policy regarding the posting of consumer alerts on the State Bar's website and is consistent with the State Bar's policy regarding the online posting of NDCs and other initiating documents.