

AGENDA ITEM

54-141 NOVEMBER 7 2014

DATE: October 30, 2014

TO: Members, Planning and Budget Committee
Members, Board of Trustees

FROM: Membership Liaisons
Joanna Mendoza
Terrance Flanigan
Danette E. Meyers

SUBJECT: Member 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 and exigent situations where the member did not contribute to the cause of the failure to pay full fees.

ISSUE

Do the Board Committee on Planning and Budget 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 members listed below? The Board Committee and the Board may deny or agree **in whole** or **in part** with any of the recommendations.

DISCUSSION

The following members 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 Membership Liaisons. The Liaisons have determined that good cause exists to recommend adjustments.

Victoria O'Hara Davis (#90019) Admitted November 29, 1979. Current status is Not Eligible to Practice for failure to pay bar fees and MCLE noncompliance both effective 7/1/14. Member has a balance of \$895, including licensing fees and penalties as well as MCLE noncompliance fees. Member requests a waiver of her 2014 licensing fees and penalties in the amount of \$620. Member's request is based on financial and medical hardship. Member has received 1 waiver in the past 6 years. Member has submitted a letter of explanation and a financial declaration.

Jennifer L. Haman (#224060) Admitted January 2, 2003. Current status is Not Eligible to Practice for failure to pay bar fees, effective 7/3/12. Member paid her past due fees on 10/6/14 with a personal check, therefore reinstatement will be 30 days from payment date as per office policy. Member has no current balance. Member requests a waiver and refund of the penalty portion of her fees for years 2012, 2013, 2014 in the amount of \$190. Member's request is based on financial and medical hardship. Member has not received a waiver in the past 2 years, prior to that member was part of the, no longer applicable, Continuing Waiver program. Member has submitted a letter of explanation.

Clyde Charles Pearce (#159786) Admitted September 15, 1992. Current status is Not Eligible to Practice for failure to pay bar fees, effective 7/1/14. Member has a balance of \$620, and member requests a waiver of this amount, representing his 2014 fees and penalties. Member's request is based on financial and medical hardship. Member has not received a waiver in the past 6 years. Member has submitted a letter of explanation.

FISCAL / PERSONNEL IMPACT

This item contains 3 recommendations for a total financial impact of \$1,430. If the recommended adjustments below are approved, the year to date fiscal impact will be \$24,268.75.

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 fee adjustments as listed in Attachment A.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Planning and Budget Committee agree with the attached recommendation, the following resolution would be appropriate:

RESOLVED, that the Planning and Budget Committee recommends that the Board approve the fee adjustments for the State Bar members as presented this day, and on file in the San Francisco office of the State Bar.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Planning and Budget Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby approves the fee adjustments for the State Bar members as presented this day before the Board, and on file in the San Francisco office of the State Bar.

ATTACHMENT

A: Membership Liaisons' Proposed Fee Adjustments