



THE STATE BAR OF CALIFORNIA

OFFICE OF THE CHIEF TRIAL COUNSEL

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TO: Members, Committee on Regulation and Discipline Oversight

FROM: Jayne Kim, Chief Trial Counsel, Office of the Chief Trial Counsel

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RE: Status Report From the Office of Chief Trial Counsel

I.

Annual Discipline Data for 2014 – Preliminary Calculations

In preparation for the Attorney Discipline Report for Year Ending December 31, 2014 (“Annual Discipline Report”), on January 30, 2015, the Office of Budget and Performance Analysis provided its *preliminary* year-end discipline data calculations for 2014, as stated below. These annual numbers should match closely with the official backlog numbers to be reported in the Annual Discipline Report in April 2015, however, the Office of Budget and Performance Analysis has not completed all data validation. Consequently, there may be minor variances with the numbers provided herein and the official numbers to be reported in April.

According to preliminary data, the total number of disciplinary complaints handled by OCTC last year was 21,359, which included:

- 5,076 complaints carried over from 2013
- 16,204 new complaints opened in 2014,
- 79 complaints reopened in 2014.

In 2014, OCTC filed approximately 1,029 complaints in State Bar Court and closed approximately 15,310, leaving 5,020 complaints pending at the end of the year, as follows:

- 1,816 in suspended status, 1,712 of which were older than six months,
- 3,204 in active status, 266 of which were older than six months.

As a reminder, the majority of suspended cases are awaiting a disbarment order in another matter. The Office of Chief Trial Counsel (OCTC) suspends complaints involving respondents who are likely to be disbarred in pending proceedings before State Bar Court and where circumstances exist warranting abatement, pursuant to Rules of the State Bar, rules 5.50-5.52.

Consequently, many of the State Bar’s stakeholders focus greater attention on OCTC’s backlog of active complaints than its suspended complaints – although suspended complaints continue to age as part of OCTC’s backlog inventory. According to the Office of Budget and Performance Analysis, OCTC ended 2014 with a backlog of approximately 266 active complaints.

Annual Comparison of Active Complaints in Backlog

As a reminder, commencing with the most recent Annual Discipline Report published in April 2014, the Office of General Counsel (OGC) began reporting OCTC's backlog inventories using an expanded backlog count to include complaints from public complainants, State Bar Initiated complaints, reportable actions, referrals from the Office of Probation and referrals from other jurisdictions.

OGC also adjusted previous annual backlog numbers using the expanded backlog count as reported in Table 42 of the Annual Discipline Report published April 2014. According to the last Annual Discipline Report, OCTC ended 2013 with approximately 400 active complaints in backlog status, compared to approximately 450 active complaints in backlog status in 2012 and approximately 400 active complaints in backlog status in 2011. Prior to 2011, OCTC had a backlog of active complaints above 2,500.

Decreasing Volume of Annual Complaints

The annual inflow of new complaints has been decreasing over the past four years and appear to be returning to a level that existed before the surge of loan modification complaints in 2009 and 2010.

In 2009, OCTC began coding complaints alleging misconduct involving loan modification services. As a reminder, allegation coding is limited in OCTC's current case management system and these numbers, while helpful, may not accurately report the number of complaints that actually involve loan modification misconduct. Allegation coding is based upon the initial review of a complaint and does not necessary reflect investigation results or subsequent court findings.

New Complaints With Loan Modification Allegation Coding:

	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
New Complaints Re Loan Modification:	680	1,469	1,693	2,626	4,337	3,271	n/a
Total Number of New Complaints Received:	16,204	16,389	18,141	18,910	21,270	20,489	16,113

Client Security Fund (CSF) applications based upon loan modification misconduct has also been decreasing since 2010. CSF provided the following estimates based upon CSF's internal tracking of a respondent's practice area:

Annual Inflow of New CSF Applications Related to Loan Modification:

	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
New Applications Re Loan Modification:	761	1,248	1,772	2,319	2,718	2,015	n/a
Total New CSF Applications Received:	1,554	2,228	2,767	3,411	3,875	3,028	825

II.

January 2015 Month-End Metrics

As a reminder, OCTC runs its own internal reports to monitor its backlog and to estimate official numbers each year. OGC, however, independently reports OCTC's inventory and workflows in the Annual Discipline Report and relies upon the Office of Budget and Performance Analysis to mine and compile the discipline data. Each year there are minor variances between OCTC's numbers and those compiled by the Office of Budget and Performance Analysis due to certain data errors and/or limitations within OCTC's current case management system. Established data validation procedures for the Annual Discipline Report generally rectifies the data discrepancies resulting in only negligible variances in past years.

Intake: New Complaints

Case Initiation Type:	Month-End Number of New Cases:
Complaints from Complainants	930
State Bar Investigations (SBIs)	24
Reportable Actions (RAs)	274
TOTAL	1,228

Intake: Month-End Inventory

The standing inventory of pending matters against individual attorneys was 1,676.

Intake: Call Center Volume

Intake staff responded to 3,729 telephone calls from the Complaint Hotline, 23 of which came through the Immigration Hotline.

Investigations: Backlog of Active Complaints

There were 150 matters in backlog status out of 1,197 total matters in the active investigation inventory. 14 of the backlog matters are assigned to outside examiners (OEX). The median time it took OCTC to complete the investigation phase of a complaint was 164 days.

Pre-Filing (Notice Open): Backlog of Active Complaints

There were 93 matters in backlog status out of 145 total matters in the active pre-filing inventory. None of the backlog matters are assigned to outside examiners (OEX). The median time it took OCTC to complete the pre-filing phase of a complaint was 71 days.

Suspended Inventory

There were 1,732 cases in suspended status, involving 212 attorneys. Of the 212 attorneys, 163 of them were on inactive status or otherwise not-entitled to practice law. As a reminder, the majority of suspended cases are expected to close upon receipt of a disbarment order from the Supreme Court.

Suspension Reason	
Default in other matter	221
Expected Disbarment	260
Disbarment Recommendation	888
Overlapping Litigation	269
6007 Order	94
TOTAL	1,732

Audit & Review: Second Look Inventory

There were 283 pending “second look” requests at the end of the month. The median time it took OCTC to process a complaint through Audit & Review (“second look”) phase was 98 days.

Walker Petitions

There were seven (7) Walker petitions filed last month.

Trials And Discipline Decisions

OCTC received discipline recommendations involving 57 complaints last month, as follows:

Decision Type	# (by SBC proceeding)
By Trial	5
By Default Decision	8
By Stipulation	44
By ADP Decision	0
Dismissal Decision	0

As a reminder, due to limitations of the State Bar Court’s available data, OCTC conducts an internal hand-count of the discipline decisions each month.

According to State Bar Court data, OCTC commenced 13 trial proceedings last month. As a reminder, where there are multiple complaints consolidated for trial before the State Bar Court, the State Bar Court considers consolidated complaints as a single trial proceeding and does not separately count the number of individual complaints involved in a consolidated proceeding for this report.