

AGENDA ITEM

54-131 JULY 2017

DATE: July 6, 2017

TO: Members, Admissions and Education Committee
Members, Board of Trustees

FROM: Dina DiLoreto, Managing Director, Member Records & Compliance

SUBJECT: Recommendation to the Supreme Court of California for Suspension of Licensees Delinquent in Payment of 2016 and 2017 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 years 2016 and 2017. Licensees who have not paid by August 31, 2017 will be suspended by the Supreme Court of California effective September 1, 2017. Members of the Board of Trustees with questions or concerns may contact Dina DiLoreto at (415) 538-2121 or Dina.DiLoreto@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 years 2016 and 2017.

DISCUSSION

Process and Notice

Outlined below is the process used by the State Bar during the 2017 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 2016 fees after January 1, 2016, whose fees remain unpaid, are included in this year's suspension because their initial due date was later than the date of the 2016 Final Delinquent Notice (March 11, 2016). These licensees received, in addition to a fee statement sent approximately thirty (30) days after enrollment, all of the 2017 notices described below.
- Assessment of 2017 fees was posted online within each attorney's My State Bar Profile on December 7, 2016, and attorneys were sent an accompanying email notice. Those attorneys formally exempt from Rule of Court 9.7 regarding online access were also mailed a paper fee statement. Information regarding the March 1, 2017 deadline and late payment penalties was clearly provided on the paper statement as well as the online version.
- The "Final Delinquent Notice", as provided for by section 6143 of the Business and Professions Code, was mailed (US postal mail) on May 12, 2017. This notice confirmed assessment of 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 September 1, 2017.

Additional Follow-Up

In addition to the foregoing notices, in December 2016, a postcard was mailed (US postal mail) to all attorneys, alerting them that paper fee statements were not automatically being mailed, and directing them to My State Bar Profile, and to the new Agency Billing portal for group payments. Attorneys who had not yet paid fees were also sent 2 additional email reminders before the March 1, 2017, payment deadline. Another email was sent in April 2017. Two more emails will be sent before the August 31, 2017 final deadline. All outreach efforts serve to remind licensees of the deadlines and encourage payment of fees in order to avoid suspension.

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

BOARD GOALS & OBJECTIVES

2017-2022 Strategic Plan Goals and Objectives:

(3) Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

BOARD COMMITTEE RECOMMENDATIONS

The Admissions and Education Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees forward to the Supreme Court of California 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 August 31, 2017, and 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 fees 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 November 17, 2016 Supreme Court Order and sections 6086.10, 6140, 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 September 1, 2017, 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.

ATTACHMENT(S) LIST

None.