

AGENDA ITEM

50-1 LICENSEE REQUEST FOR ADJUSTMENTS TO FEES AND PENALTIES SEPTEMBER 2017

DATE: August 25, 2017

TO: Members, Board of Trustees

FROM: Licensee Liaisons
Danette E. Meyers
Brandon N Stallings
Alan Steinbrecher

SUBJECT: Licensee Request for Adjustments to Fees and Penalties

EXECUTIVE SUMMARY

Licensees may request that adjustments be made to their license 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 licensee requests for which the Board's Licensee 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 license fees and penalties. Rule 2.16 (C) specifies three circumstances where staff may grant a licensee's request for waiver of up to \$1,000 in annual licensing fees and penalties for the year in which they are due. These circumstances are that 1) the licensee serves full-time as a magistrate, commissioner, or referee for a state or federal court of record, 2) the licensee 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 licensee's total gross annual household income from all sources is \$20,000 or less, in which case the waiver is 50% of the annual license 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 Licensee Liaisons have reviewed the waiver requests that come under Rule 2.16

(H) and have made recommendations to the Board committee 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 licensee's justifications for a fee waiver should be weighed against the public policy reasons for imposing annual license fees. The primary public policy reason for imposing State Bar license 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, license fee waivers should not be granted as a matter of course, but rather should be limited to extraordinary, compelling and exigent situations where the licensee did not contribute to the cause of the failure to pay full fees.

DISCUSSION

The following licensees have requested adjustments to their annual State Bar license 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 licensees have appealed to the Licensee Liaisons. The Liaisons have determined that good cause exists to recommend adjustments.

Michael John Apicella (#225759) Admitted June 7, 2003. Current Status is Active. Licensee has a balance of \$512. Licensee requests late fee scaling and a waiver of the late payment penalty. Licensee's request is based on not having received notice of his license fees being due. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation.

Frank Tony Dingman (#70642) Admitted December 22, 1976. Current status is Active. Licensee has no current balance. Licensee requests a waiver of his late payment penalty. Licensee's request is based on the fact that he did not receive a fee statement in the mail. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation.

Janice Lynn Fuhrman (#117477) Admitted December 22, 1976. Current status is Active. Licensee has a balance of \$327. Licensee requests the Inactive license rate and the Inactive late payment penalty for 2017. Licensee's request is based on medical hardship. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation.

Frank Edward Harrigan III (#196730) Admitted November 5, 1998. Current status is Active. Licensee has a balance of \$203. Licensee requests late fee scaling and a waiver of the late payment penalty. Licensee's request is based on financial and medical hardship. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation.

Curtis Stewart Kates (#190608) Admitted December 4, 1997. Current status is Active. Licensee has no current balance. Licensee requests a waiver of his late payment penalty. Licensee's request is based on the fact that he was unable to pay his fees on time because he is serving in the Airforce overseas. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation .

Amanpreet Kaur (#271782) Admitted December 3, 2010. Current status is Active. Licensee has a balance of \$512. Licensee requests a waiver of his late payment penalty. Licensee's request is based on financial hardship and the fact that he thought his former employer had paid his fees. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation.

Evelyn Kaye Lin (#303117) Admitted May 20, 2015. Current status is Inactive. Licensee has a balance of \$512. Licensee requests the Inactive license rate for 2017 and a waiver of her late payment penalty. Licensee's request is based on financial hardship and her claim that she did not receive notice that her 2017 fees were due. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation, a financial declaration and supporting documentation.

Richard Oliver (#51273) Admitted January 5, 1972. Current status is Active. Licensee has a balance of \$587. Licensee requests the Inactive license rate and a waiver of the late payment penalty. Licensee's request is based on medical hardship and on not having received a paper fee statement. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation.

James C. Rosebraugh (#180068) Admitted December 12, 1995. Current status is Active. Licensee has no current balance. Licensee requests a waiver of his late payment penalty. Licensee's request is based on his claim that our website prevented him from paying on time. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation.

Ralph C. Smith (#88767) Admitted November 29, 1979. Current status is Inactive. Licensee has no current balance. Licensee requests the Inactive license rate for 2017. Licensee's request is based on medical hardship. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation.

John Kevin Vincent (#96092) Admitted December 16, 1953. Current status is Active. Licensee has no current balance. Licensee requests a waiver of the late payment penalty. Licensee's request is based on medical hardship. Licensee has not received a Board waiver in the past. Licensee has submitted a letter of explanation and supporting documentation.

FISCAL/PERSONNEL IMPACT

This item contains 11 recommendations for a total financial impact of \$2,237. If the recommended adjustments in Attachment A are approved, the year to date fiscal impact will be \$6,989.50.

RULE AMENDMENTS

There are no rule amendments

BOARD BOOK IMPACT

There is no impact on the Board Book

LICENSEE LIAISON RECOMMENDATIONS

The Licensee Liaisons recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve the fee adjustments for the State Bar licensees as presented this day before the Board, and on file in the San Francisco office of the State Bar

ATTACHMENT(S) LIST

- A.** Licensee Liaisons' Proposed Fee Adjustments