

# **OPEN SESSION AGENDA ITEM**

**54-132 MAY 2018  
Programs III.B.**

**DATE:** May 17, 2018

**TO:** **Members, Programs Committee  
Members, Board of Trustees**

**FROM:** Dina DiLoreto, Program Director, Attorney Regulation and Consumer Resources  
Robert McPhail, Program Manager, Attorney Regulation and Consumer Resources

**SUBJECT:** Annual Recommendation to the Supreme Court of California for Suspension of  
Licensees Delinquent in Payment of State Bar Fees, Penalties or Costs

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## **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 annual fees, penalties or costs. This suspension recommendation is for years 2017 and 2018, and proposes that licensees who have not paid by July 2, 2018, be suspended by order of the Supreme Court of California effective July 3, 2018.

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## **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.”

Furthermore, within the Rules of the State Bar, Title 2, Division 3, Rule 2.33(A) states, “A member who fails to pay annual membership fees or any outstanding penalties or costs will be sent a final delinquency notice at the member’s address of record. If the State Bar fails to receive full payment of the amount due within two months of sending the final delinquency notice, the State Bar will recommend that the Supreme Court suspend the member from the practice of law.”

The written notice of delinquency was mailed March 16, 2018, 62 days in advance of the date set for action by the Board of Trustees.

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 annual fees, penalties or costs for years 2017 and 2018.

## **DISCUSSION**

### **Process and Notice**

Outlined below is the process used by the State Bar during the 2018 billing cycle to collect State Bar annual 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 2017 fees after January 10, 2017 (mostly new attorneys), whose fees remain unpaid, are included in this year's suspension because their initial due date was later than the date of the 2017 Final Delinquent Notice (May 12, 2017). These licensees received, in addition to a fee notice sent approximately thirty (30) days after enrollment, all of the 2018 notices described below.
- Assessment of 2018 fees was posted online within each attorney's My State Bar Profile on December 8, 2017, and attorneys were sent an accompanying email notice. Those attorneys formally exempt from providing the State Bar an email address pursuant to Rule of Court 9.9(e) were mailed a paper fee statement. Information regarding the February 1, 2018 deadline and late payment penalties was clearly provided on the paper statement as well as the online version.
- The "Final Delinquent Notice", as provided by section 6143 of the Business and Professions Code, was mailed (US postal mail) on March 16, 2018. 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 July 3, 2018.

### **Additional Follow-Up**

Attorneys who had not yet paid fees before February 1, 2018 were sent an email reminder before the payment deadline. Two more emails will be sent before the July 2, 2018 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 AMENDMENTS**

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: None - core business operations

## **RECOMMENDATION**

**It is recommended that the Programs Committee and 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 fees, penalties or costs on or before July 2, 2018, and hereby:

(a) finds that State Bar staff performed the ministerial functions for determining that each person who is to be recommended to the Supreme Court of California for suspension due to nonpayment of fees is licensed by The State Bar of California;

(b) concludes that State Bar staff determined that each such person failed to fully pay fees, penalties and/or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.5(c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;

(c) ascertains that State Bar staff have 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's State Bar license be suspended, which would suspend them from the practice of law in the State of California, effective July 3, 2018, 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, State Bar staff is authorized and directed to notify the Clerk of the Supreme Court of California of the name of any licensee of the State Bar who by proper remittance (e.g., credit card accepted by the State Bar, 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, State Bar staff is authorized and directed to change the data as to status or the amounts of delinquency of any licensee 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