



# The State Bar *of California*

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## **OPEN SESSION AGENDA ITEM 702 MARCH 2019**

**DATE:** March 15, 2019

**TO:** Members, Board of Trustees

**FROM:** Dina DiLoreto, Program Director, Office of Attorney Regulation & Consumer Resources

**SUBJECT:** Update on Waiver of Late Payment Penalties for Federal Employees; Approval of Schedule for Payment of Fees Due

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### **EXECUTIVE SUMMARY**

At its January 25, 2019 meeting, the Board of Trustees approved a staff proposal (Agenda Item 704) to provide relief to those licensees who are federal employees and who were concerned about the late payment of their annual licensing fees during the partial government shutdown. This relief came in the form of a pre-authorization for staff to waive associated late payment penalties for those attorneys who provided proof that they were directly impacted by the shutdown. The proposal was made to proactively address the anticipated requests, falling under Rule 2.16(H), which allows the Board to consider requests for waiver that are not already specifically approved within the Rules of the State Bar. This item provides an update on this issue and requests final action by the Board regarding those licensees who requested a waiver of the late penalty under this delegated authority.

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### **BACKGROUND**

Leading up to the January board meeting, the Office of Attorney Regulation & Consumer Resources had received several inquiries from federal employees impacted by the partial federal government shutdown about the ability to delay payment or waive fees or late payment penalties associated with annual licensing fees.

Title Two, Rule 2.16 provides staff the authority to waive fees and penalties in defined instances. Rule 2.16 (H) reserves for the Board the right for good cause to consider all other requests for waivers. Traditionally, a small group of Board members volunteer to meet with staff, review the waiver requests that come under Rule 2.16 (H) and then make

recommendations to the appropriate Board committee and the Board of Trustees on whether good cause is present to grant the waiver requests.

Having the Board pre-authorize late payment penalty waiver requests for those federal employees who proved they were impacted by the federal shutdown assisted staff in greatly streamlining the waiver review process in these cases, and helped us provide immediate relief to those attorneys who were facing a temporary loss of wages and were concerned about penalties.

## **DISCUSSION**

Annual licensing fees were due February 1, 2019. Thereafter, late payment penalties of \$100 for Active licensees and \$30 for Inactive licensees were assessed.

In the days leading up to and after the February 1 deadline, staff received a total of 242 requests for waiver of the late payment penalty from federal employees affected by the shutdown. The announcement of the end of the shutdown on January 25, 2019, appears to have immediately lessened the financial uncertainty for many attorneys, and 120 of the original 242 ultimately paid their fees on time so there was no need to waive any penalty. Penalties were waived for the remaining 122 attorneys. Of those 122, 94 have not yet paid the remaining balance.

The final deadline to pay any outstanding fees and penalties for all attorneys is July 1, after which they would be potentially subject to administrative suspension. Since the partial government shutdown ended, staff proposes that federal employees who were eligible for the late payment penalty waiver receive no further differentiated treatment, and therefore have until July 1 to resolve their outstanding balance.

Staff also proposes that, until that July 1 final deadline, any similar requests for waiver of the late fee by eligible federal employees who have not yet paid, continue to be approved. While the incoming requests have now slowed down to a stop, we anticipate receiving several more requests after the March 15, 2019, Final Delinquent Notices are mailed to those attorneys who have not yet paid their annual fees.

## **FISCAL/PERSONNEL IMPACT**

To date, \$11,220 in late payment penalties have been waived under this particular provision. [(108 Active attorneys x \$100 late payment penalty) + (14 Inactive attorneys x \$30 late payment penalty).]

## **RULE AMENDMENTS**

None

## **BOARD BOOK AMENDMENTS**

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: None - core business operations

## **RECOMMENDATIONS**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees approve the waiver of any 2019 licensing fee late payment penalty where the requester has provided proof, prior to the July 1, 2019 final payment deadline, to the satisfaction of staff that they are or were a federal employee who was impacted by the partial government shutdown; and it is

**FURTHER RESOLVED**, that federal employees remain subject to the July 1, 2019, final payment deadline for annual licensing fees applicable to all other licensees.

## **ATTACHMENT LIST**

None