



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

54-141 JULY 2019

FINANCE AND PLANNING COMMITTEE II.A

DATE: July 11, 2019

TO: Members, Finance and Planning Committee
Members, Board of Trustees

FROM: Ruben Duran, Brandon Stallings and Alan Steinbrecher

SUBJECT: Licensee Requests for Adjustment of Fees, Penalties, and Charges

EXECUTIVE SUMMARY

Licensees may request that adjustments be made to their assessed license fees and penalties. Staff are empowered to approve or deny requests based on certain factors delineated in the rules. Rule 2.16 (H) of the Rules of the State Bar states that the Board reserves the right for good cause to grant requests for waivers that were denied by staff and to consider all other requests for waivers outside the scope of staff's authority. Each year, staff convene an informal working group of Board members to assist in developing the recommendations on such requests. This agenda item identifies those licensee requests which the working group has considered, and indicates whether the working group has 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 the Rules of the State Bar authorizes the waiver of annual license fees and penalties in defined circumstances. 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: (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; 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 percent of the annual license fees.

Rule 2.16 (D) – (G) also allow staff to grant waivers for licensees serving in the National Guard or in one of the military reserve units for at least 30 days, judicial officers who are leaving office, inactive licensees over 70 years of age, and licensees enrolled in the State Bar of California Pro Bono Practice Program.

Rule 2.16 (H) reserves to the Board of Trustees the authority, 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, 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. After confirming with the chair of the Finance and Planning Committee that this structure for consideration of waiver requests remained acceptable, staff secured Trustees Ruben Duran, Brandon Stallings and Alan Steinbrecher as the Board volunteers. Both Trustee Stallings and Trustee Steinbrecher have served in this capacity in prior years.

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. 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.

DISCUSSION

At the May Board meeting, the Board approved the working group's recommendations on 36 waiver requests. This agenda item includes 7 requests for waivers considered by the informal working group after the May Board meeting, along with the recommendations of the group to grant or deny the request. The 7 waiver requests fall into two categories: (1) requests that are outside staff's authority to grant because they exceed \$1,000 or do not meet the parameters of Rule 2.16 (C); and (2) appeals of requests within staff's authority to consider, but which staff denied. The working group's recommendations are based on their review of the full request and supporting information provided by the requesting attorney. For the Finance and Planning Committee and the Board of Trustees, the following table summarizes the requests only at a high level. The table is organized to first list those waiver requests recommended for approval by the informal working group, then to list those waiver requests recommended for partial approval, and finally to list those recommended for denial.

#	Name	Bar #/Admission Year	Status	Request/Comments	Working Group Recommendations
1.	Russell David Boeddinghaus	125912/1986	Inactive	Attorney has a current balance of \$530. Attorney requests the Inactive license rate for 2019, which because he is over 70 y/o, would be waived completely. Attorney's request is based on the fact that he was too sick to file the Transfer to Inactive form timely, but has since transferred to inactive status. Attorney has not received a Board waiver in the past.	Grant - \$530
2.	Anthony Richard Giovanniello	134560/1988	Inactive	Attorney has a current balance of \$530. Attorney requests the Inactive license rate for 2019 and a waiver of the late payment penalty. Attorney's request is based on the fact that he did not receive notification that his license fees were due because he took a job overseas in Nov. 2018. Attorney has not received a Board waiver in the past.	Grant - \$530
3.	David Lee Mandel	152271/1991	Active	Attorney has no current balance. Attorney requests the scaled license rate for 2019. Attorney's request is based on financial hardship and the fact that he does not do any paid legal work. Attorney has not received a Board waiver in the past.	Grant - \$195.75
4.	Barbara Jean Weiser	138955/1988	Not Eligible	Attorney has a current balance of \$1,160. Attorney requests a waiver of her 2018 license fees and late payment penalty. Attorney's request is based on financial and medical hardship. Attorney has not received a Board waiver in the past.	Grant - \$530

#	Name	Bar #/Admission Year	Status	Request/Comments	Working Group Recommendations
5.	Naomi Briana Sunshine	244094/2006	Not Eligible	Attorney has a current balance of \$2,202. Attorney requests a waiver or reduction of her current balance so that she may reinstate her license and then transfer to Inactive status. Attorney's request is based on the fact she did not receive notice from the Bar about her license fees and/or license status. Attorney has not received a Board waiver in the past.	Grant – Partial waiver in the amount of \$1,380
6.	Paul Ligda	32569/51962	Inactive	Attorney has a current balance of \$375. Attorney requests the Inactive license rate for 2019, which because he is over 70 y/o, would be waived completely. Attorney's request is based on the fact that he intended to transfer his license to Inactive status, but the last case he was working on took longer than expected to conclude. Attorney has not received a Board waiver in the past.	Deny
7.	James P. Peterson	195897/1998	Inactive	Attorney has a current balance of \$160.50. Attorney requests a waiver of the 2019 Inactive license fees and late payment penalty. Attorney's request is based financial hardship. Attorney has not received a Board waiver in the past.	Deny

FISCAL/PERSONNEL IMPACT

This item contains 5 recommendations for a waiver or adjustment of fees for a total financial impact of \$3,165.75. If the recommended adjustments are approved, the year to date fiscal impact will be \$28,160, which includes \$12,510 in late payment penalties waived for federal employees negatively affected by the government shut down, as approved at the January Board meeting.

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

It is recommended that the Finance and Planning Committee and 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

None