



The State Bar of California

OPEN SESSION AGENDA ITEM 50-6 JULY 2020

DATE: July 16, 2020

TO: Members, Board of Trustees

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

SUBJECT: Annual Recommendation to the Supreme Court of California for Suspension of Licensees Delinquent in Payment of License 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 annual fees, penalties, or costs. This suspension recommendation is for years 2019 and 2020, and proposes that licensees who have not paid by September 30, 2020, be suspended by order of the Supreme Court of California effective October 1, 2020.

BACKGROUND

Business and Professions Code section 6143 states that "Any licensee, 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 have his or her license suspended. The licensee 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."

State Bar Rule 2.33(A) states, "A licensee who fails to pay annual license fees or any outstanding penalties or costs will be sent a final delinquency notice at the licensee'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 licensee from the practice of law."

The written notice of delinquency was mailed March 13, 2020. Subsequently, at its April 16, 2020, meeting, the Board of Trustees delayed the final payment deadline from June 30 to September 30, as part of a collection of changes intended to mitigate the impact of the COVID-19 emergency on licensees and others.

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 2019 and 2020.

DISCUSSION

PROCESS AND NOTICE

Outlined below is the process used by the State Bar during the 2020 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 2019 fees after February 1, 2019 (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 2019 Final Delinquent Notice (March 15, 2019). These licensees received, in addition to a fee notice sent approximately 30 days after enrollment, all of the 2020 notices described below.
- Assessment of 2020 fees was posted online within each attorney's My State Bar Profile on December 1, 2019, and attorneys were sent an accompanying email notice during the first week of December. 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 3, 2020, deadline and late payment penalties was clearly provided on the paper statement as well as the online version.
- The "Final Delinquent Notice," as required by section 6143 of the Business and Professions Code, was mailed (US postal service, regular mail) on March 13, 2020. 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.

ADDITIONAL FOLLOW-UP

Attorneys who had not yet paid fees before February 3, 2020, were sent four email reminders before the payment deadline. Six more emails have been sent since the payment deadline, and at least two more will be sent before the September 30, 2020 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

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

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 September 30, 2020, 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, 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 their address of record with the State Bar of California, two months' written notice of their 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 October 1, 2020, until such time as they 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 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 they are 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