



# The State Bar *of California*

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**OPEN SESSION  
AGENDA ITEM  
MARCH 2024  
AUDIT COMMITTEE IV.C**

**Date: March 11, 2024**

**To: Members, Audit Committee**

**From: Ellin Davtayan, General Counsel, Office of General Counsel  
Shelby King, Assistant General Counsel, Office of General Counsel**

**Subject: Report on State Bar's Whistleblower Antiretaliation Program**

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## **EXECUTIVE SUMMARY**

On May 19, 2023, the Board of Trustees approved a comprehensive new Whistleblower Antiretaliation Program whereby individuals can send whistleblower and whistleblower retaliation complaints against the State Bar and State Bar employees, agents, and officers directly to the California Department of Justice (DOJ) for review and investigation, without prior review by the State Bar. To ensure appropriate oversight of the program by the Board, the Office of General Counsel (OGC) intends to periodically report statistics and trends regarding the complaints received by the DOJ, along with any findings about alleged improper government activity, as appropriate.

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## **BACKGROUND**

The State Bar's Whistleblower Antiretaliation Program took effect on June 1, 2023. The DOJ periodically provides the State Bar with statistics and other trend reporting regarding the complaints received in connection with the program. Our last Statistics and Trend Report included data through January 8, 2024.

## **DISCUSSION**

From June 1, 2023. through February 15, 2024:

- The DOJ received **78** complaints in connection with the State Bar’s Whistleblower Antiretaliation Program. **Sixteen** new complaints were received since January 8, 2024, when we last reported data to the Board at its January 2024 meeting.
- Of those 78 complaints, **21** complaints were determined to be against a California licensed attorney, not the State Bar, and were therefore closed by the DOJ at intake and referred to the State Bar for intake as attorney discipline complaints. **Five** of the complaints received since January 8, 2024, were found to be against an attorney.
- **Thirty-five** complaints were closed by the DOJ at intake because they were neither a complaint of improper government activity against the State Bar or a complaint against a California licensed attorney (for example, complaints against third parties without any apparent connection to the State Bar). **Seven** complaints were closed by the DOJ at intake since our last report.
- **Twenty-one** complaints against the State Bar were closed after the DOJ’s analysis of the facts provided by the complainant because the facts did not constitute a good faith allegation of an improper government activity. **Four** complaints were closed after the DOJ’s analysis since our last report.
- The DOJ determined that **1** complaint should move to the investigation stage. Since our last report, the DOJ closed the investigation. The investigator did not find that the respondent engaged in improper government activity, and the allegations were not substantiated. Because there was no finding of improper government activity, the DOJ is not contractually required to submit a report to the State Bar. This helps to maintain the independence of the Whistleblower Antiretaliation Program.
- To date, the State Bar has paid invoices totaling **\$14,875** in connection with the program.

#### **FISCAL/PERSONNEL IMPACT**

None

#### **AMENDMENTS TO RULES**

None

#### **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

#### **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

Goal 4. Protect the Public by Engaging Partners: Engage partners and stakeholders to enhance public protection and restore the State Bar’s credibility, reputation, and impact.

#### **RECOMMENDATIONS**

None

#### **ATTACHMENT LIST**

None