

**PROPOSED STATE BAR POLICY
RE POSTING OF CONSUMER ALERT FOR
SIGNIFICANT LOAN MODIFICATION MISCONDUCT**

Preliminary Statement of the State Bar’s Public Protection Duties

As the administrative arm of the California Supreme Court in matters relating to the admission, discipline and regulation of attorneys, the State Bar’s responsibility to protect the public includes, among other things, duties to inform the public about the work of the State Bar, about the right of all persons to make complaints against attorneys, and about the nature and procedures of the discipline system.

Current Policy re Posting Notices of Disciplinary Charges

Consistent with fulfilling these duties, in July 2008, the State Bar Board of Governors approved a policy to post on the State Bar’s website all notices of disciplinary charges and any response filed in the State Bar Court. These pleadings appear as PDF documents on the member’s profile page on the State Bar’s website (www.calbar.ca.gov), which consumers may open and read online.

A standing disclaimer in the State Bar Court Cases portion of the member’s profile page explains that “[a]ny posted Notice of Disciplinary Charges, Conviction Transmittal, or other initiating document, contains only allegations of professional misconduct. The attorney is presumed to be innocent of any misconduct warranting discipline until the charges have been proven.”

Under this policy, in the event that culpability is found, any notice of disciplinary charges and response to the notice remain posted on the member’s profile page until either the State Bar Court files an order finding the member culpable or issues an order approving a stipulated disposition. Upon posting the State Bar Court decision or order resolving the proceeding, the notice and response are removed from the website. In the event of exoneration of all charges or dismissal of the proceeding, the decision or order is also posted, but the notice and response are not removed and remain posted for a period of 60 days, after which all three items relating to the proceeding (notice, response if any, and decision or order) are removed from the member’s page.

New Proposal re Posting a Consumer Alert upon Filing of Notice of Disciplinary Charges Including 15 or More Cases of Loan Modification Misconduct or Business and Professions Code section 6007(c) Petition Based on Loan Modification Misconduct and Posting of Petition

Although notices of disciplinary charges are posted on a member’s State Bar profile page online upon filing and service of same, the Board of Governors concludes that filed charges of 15 or more cases of loan modification misconduct in a notice of disciplinary charges or a petition for involuntary inactive enrollment under Business & Professions Code section 6007(c) [threat of harm] based in whole or in part on loan modification misconduct warrant stronger measures to adequately protect clients and the public. The Board further concludes that such measures

include the prominently-displayed consumer alert on the member's State Bar website profile page. The State Bar should post a Consumer Alert, informational text and disclaimer, as set forth in Attachment B, placed above the name of the member on his or her member profile page as follows:

1. Contemporaneously with posting online a notice of disciplinary charges that includes 15 or more cases of loan modification misconduct, the State Bar will post a Consumer Alert above the respondent member's name, including the informational text and disclaimer as set forth in Attachment B, on the member's profile page.
2. Upon the filing of a decision or order of the State Bar Court adjudicating the disciplinary proceeding, the Consumer Alert, informational text and disclaimer will be removed from the member's profile page immediately.
3. The State Bar Court will post a true and correct copy of a petition filed pursuant to Business & Professions Code section 6007(c)[threat of harm] to enroll a member involuntarily inactive on the member's profile page when the verified application upon which the petition is based relies on, in whole or part, loan modification misconduct, and a true and correct copy of any response.
4. Upon the posting of a State Bar Court decision or order adjudicating the petition, assuming that the petition is granted, the petition and response will be removed from the website. In the event of denial of petition or dismissal of the proceeding, the decision or order will be posted but the petition and response will also remain posted for a period of 60 days, after which all three items relating to the proceeding (petition, response if any, and decision or order) will be removed from the member's page.
5. Contemporaneously with the posting of a filed petition under Business & Professions Code section 6007(c), which meets the criteria set forth in paragraph number 3 above, the State Bar will post a Consumer Alert above the member's name, including the informational text and disclaimer as set forth in Attachment B. That text will be modified to relate to the filing of a petition rather than a notice of disciplinary charges on the member's profile page.
6. Upon the filing of a decision or order of the State Bar Court adjudicating the Business & Professions Code section 6007(c) petition, the Consumer Alert, informational text and disclaimer will be removed from the member's profile page immediately.