

AGENDA ITEM

JULY 54-131

Members' Request for Adjustments to Fees and Penalties that Have Been Considered by the Membership Liaisons, Who Deemed that Good Cause Exists to Grant the Requests

DATE: June 22, 2007

TO: Members of the Board Committee on Member Oversight,
Members of the Board of Governors

FROM: Matthew Butler, Membership Liaison
Holly Fujie, Membership Liaison
Howard Miller, Membership Liaison

SUBJECT: Members' Request for Adjustments to Fees and Penalties that Have Been Considered by the Membership Liaisons, Who Deemed that Good Cause Exists to Grant the Requests

EXECUTIVE SUMMARY

Members may request that adjustments be made to their membership fees and penalties. Title Two, Rule 2.16 (I) of the Rules of the State Bar requires the Board to find that good cause exists to grant requests for waivers that were denied by staff and authorizes the Board to consider all other requests for waivers. This item consolidates several member requests for which the Membership Liaisons have determined that good cause exists to recommend fee adjustments. Board members with questions or concerns may contact Starr Babcock, 415/538-2070 or starr.babcock@calbar.ca.gov.

ISSUE

Do the Committee on Member Oversight and the Board of Governors agree with the recommendations of the Membership Liaisons that good cause exists to grant the requests for fee adjustments for the State Bar members listed below? The Committee on Member Oversight and the Board of Governors may deny or agree in whole or in part with any of the Liaisons' recommendations.

BACKGROUND

Rule 2.16 of Title Two of the Rules of the State Bar of California provides for waiver of annual membership fees and penalties. Rule 2.16 (C) specifies circumstances where staff may grant a

member's request for waiver of up to \$1,000 in annual membership fees and penalties for the year in which they are due. Rule 2.16 (I) provides that the Board of Governors reserves the right to grant requests for waivers denied by staff if good cause exists, and to consider requests that fall outside of staff's authorization for granting a waiver of fees and penalties. Traditionally, Board members who are appointed as Membership Liaisons have reviewed the waiver requests that come under Rule 2.16 (I) and have made recommendations to the Board Committee on Member Oversight and the Board of Governors where the Liaisons determined that good cause exists to recommend adjustments.

In assessing what constitutes good cause for purposes of determining whether or not the Board of Governors should grant a fee waiver, the member's justifications for a fee waiver should be weighed against the public policy reasons for imposing annual membership fees. The primary public policy reason for imposing State Bar membership fees is to provide funding for an effective attorney regulatory system that protects the public and eases the burdens on the courts. The system is funded solely through the imposition and collection of annual fees. For this reason, membership fee waivers should not be granted as a matter of course, but rather should be limited to compelling, exigent situations where the member did not contribute to the cause of the failure to pay full fees.

MEMBERSHIP LIAISONS' RECOMMENDATIONS

The following members have requested adjustments to their annual State Bar membership fees. Staff has reviewed these requests and established that they do not meet the qualifications for staff waivers (See Rule 2.16 (C)), or the amounts are greater than \$1,000. The requests that are less than \$1,000 have been reviewed and denied by staff, and the members have appealed to the Membership Liaisons. The Membership Liaisons have determined that good cause exists to recommend the adjustments.

Harry Leroy Root (#23853). Admitted January 28, 1953. Member is currently "Not Eligible" to practice law. He was suspended for non-payment of fees and placed on administrative inactive for MCLE non-compliance on August 12, 1996. He is 83 years old. Member states that he has not practiced law since 1995. Due to personal and other extenuating circumstances, he has been experiencing severe financial hardship for the past 12 years. Although he would like to clear up his record and transfer to inactive status, he is unable to pay the accrued active fees and penalties for the years 1996 through 2007. Member requests a waiver of his 1996-2007 active fees and penalties based on financial hardship. He has submitted a financial declaration in support of his request. **Recommendation: Waiver of 1996-2007 active fees and penalties; total waiver of \$5,862.**

Zvonko Skuljan (#118371). Admitted June 13, 1985. Member is currently "Not Eligible" to practice law. He was suspended for non-payment of fees on September 1, 2001, and was placed on administrative inactive for MCLE non-compliance on September 3, 2002. He was also suspended for discipline from July 17, 1997 until September 15, 1997. Member states that a difficult family situation caused substantial stress for him and affected his ability to focus on his law practice. Therefore he ceased his law practice and started to work in a non-legal job. Member states that although his salary was low, the potential earnings appeared promising. However, he encountered a series of unexpected challenges in his employment, which in turn affected his earnings. As a result, he has been suffering from financial hardship. Member wishes to return to law practice, however, he is unable to pay the full outstanding active fees and penalties for the years 2000 through 2007. Member requests a waiver of the accrued 2000-

2007 active fees and penalties or a reduction in these fees based on financial hardship. He has submitted a financial declaration in support of his request. **Recommendation: Contingent on payment of \$1,448.75 (\$592.50 active fees and penalties for 2000, \$456.25 inactive fees and penalties for 2001-2006 plus \$400 active fees for 2007) within 60 days of notice to member, waiver of the difference between active and inactive fees and penalties for 2001-2006; total waiver of \$2,518.75.**

Terentia Nigel Toussaint-Carroll (#152093). Admitted October 4, 1990. Member is currently "Not Eligible" to practice law. She was suspended for non-payment of fees on July 21, 1997, and was placed on administrative inactive for MCLE non-compliance on September 3, 2002. She has reinstated from MCLE non-compliance on May 9, 2007, but still remains on non-payment suspension. Member states that she has not been practicing law since 1996 and has been unemployed since 2000. Due to employment and personal situations, she has been experiencing financial hardship. She would like to clear up her record so that she can transfer to inactive status, however, she is unable to pay the full outstanding active fees and penalties for the years 1997 through 2007. Member requests a waiver of her 1997-2007 active fees and penalties based on financial hardship. She has submitted a financial declaration in support of her request. **Recommendation: Contingent on payment of \$911.25 inactive fees and penalties for 1997-2007 within 60 days of notice to member, waiver of the difference between active and inactive fees and penalties for 1997-2007; total waiver of \$4,233.75.**

FISCAL IMPACT

This is the third Membership Liaison request submitted for membership year 2007. This item contains three recommendations for a total adjustment of \$12,614.50. The prior items resulted in adjustments of \$9,222.75. If the recommended adjustments below are approved, the year to date fiscal impact will be \$21,837.25.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

There is no impact on the Board Book/Administrative Manual.

RECOMMENDATIONS AND RESOLUTIONS

Should the Board Committee on Member Oversight concur with each recommendation of the Membership Liaisons, it would be in order to adopt the following resolutions:

RESOLVED, that the Board Committee on Member Oversight hereby recommends that the Board of Governors approve the fee adjustments for the following State Bar members as noted below:

Harry Leroy Root: Waiver of 1996-2007 active fees and penalties; total waiver of \$5,862.

Zvonko Skuljan: Contingent on payment of \$1,448.75 (\$592.50 active fees and penalties for 2000, \$456.25 inactive fees and penalties for 2001-2006 plus \$400 active fees for 2007) within 60 days of notice to member, waiver of the difference between active and inactive fees and penalties for 2001-2006; total waiver of \$2,518.75.

Terentia Nigel Toussaint-Carroll: Contingent on payment of \$911.25 inactive fees and penalties for 1997-2007 within 60 days of notice to member, waiver of the difference between active and inactive fees and penalties for 1997-2007; total waiver of \$4,233.75.

PROPOSED BOARD RESOLUTIONS

Should the Board of Governors concur with each recommendation of the Board Committee on Member Oversight, it would be in order to adopt the following resolutions:

RESOLVED, upon recommendation of the Board Committee on Member Oversight, that the Board of Governors hereby approves the fee adjustments for the following State Bar members as noted below:

Harry Leroy Root: Waiver of 1996-2007 active fees and penalties; total waiver of \$5,862.

Zvonko Skuljan: Contingent on payment of \$1,448.75 (\$592.50 active fees and penalties for 2000, \$456.25 inactive fees and penalties for 2001-2006 plus \$400 active fees for 2007) within 60 days of notice to member, waiver of the difference between active and inactive fees and penalties for 2001-2006; total waiver of \$2,518.75.

Terentia Nigel Toussaint-Carroll: Contingent on payment of \$911.25 inactive fees and penalties for 1997-2007 within 60 days of notice to member, waiver of the difference between active and inactive fees and penalties for 1997-2007; total waiver of \$4,233.75.