

AGENDA ITEM

MAY 54-133

Recommendation to the Supreme Court for Suspension of Members Delinquent in Payment of 2008 and 2009 State Bar Membership Fees, Penalties and/or Costs

DATE: May 15, 2009

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

FROM: Peggy Van Horn, Chief Financial Officer
Ray Farrish, Finance Manager, Member Billing

SUBJECT: Recommendation to the Supreme Court for Suspension of Members Delinquent in Payment of 2008 and 2009 State Bar Membership Fees, Penalties, and/or Costs

ATTACHMENT: List of Members Delinquent in Payment of 2008 and 2009 State Bar Membership Fees, Penalties, and/or Costs

EXECUTIVE SUMMARY

Pursuant to the provision of Business and Professions Code section 6143, the Board of Governors, on an annual basis, recommends to the Supreme Court the suspension of members who have not fully paid State Bar membership fees, penalties and/or costs. This suspension recommendation is for membership years 2008 and 2009. Members who have not paid by June 30, 2009, will be suspended by the Supreme Court effective July 1, 2009. Board members with questions or concerns may contact Peggy Van Horn at (415) 538-2353 or peggy.vanhorn@calbar.ca.gov or Ray Farrish at (415) 538-2157 or raymond.farrish@calbar.ca.gov.

DISCUSSION

Process and Notice

Outlined below is the process used by the State Bar during the 2009 billing cycle to collect State Bar membership fees and penalties, including any assessed costs for disciplinary proceedings pursuant to Business and Professions Code section 6086.10, and any assessed costs for reimbursement to the Client Security Fund pursuant to Business and Professions Code section

6140.5 (c).

- Members billed for 2008 fees on January 29, 2008 or later, who remain unpaid, are included in this suspension. These members received, in addition to fee statements sent approximately thirty (30) days after enrollment, all the 2009 notices as provided below.
- The first fee statement (the annual statement) was mailed on December 1, 2008. Information regarding penalties was printed on the 'Late Payment Penalties' portion of the fee statement.
- The "Final Delinquent Notice", as provided for by section 6143 of the Business and Professions Code, was mailed on March 13, 2009. This notice included the late payment penalty and advised that if fees and/or penalties and/or costs were not received within two months, the Board of Governors would recommend to the California Supreme Court that the member be suspended from the practice of law, effective July 1, 2009.

Additional Member Follow-Up

In addition to the foregoing notices, Member Billing technicians are placing courtesy calls and sending e-mail notices where possible. These outreach efforts serve to remind members of the deadlines and encourage payment of fees in order to avoid suspension. These calls are made on a staff-time-available basis and will continue to be placed through June 30, 2009.

Finalization of List

The final delinquent list will be provided during the Board meeting.

FISCAL AND PERSONNEL IMPACT

There is no fiscal impact.

BOARD BOOK/ADMINISTRATIVE MANUAL

This item has no impact on the Board Book/Administrative manual.

RECOMMENDATION

Staff recommends that the attached list of those members to be suspended from the practice of law in California for failing to pay State Bar membership fees, penalties, and/or costs on or before June 30, 2009 be forwarded to the California Supreme Court.

RESOLUTION

If the Board Committee on Member Oversight concurs with staff's recommendation, the following resolutions are suggested:

RESOLVED, that the Board Committee on Member Oversight hereby ascertains and determines:

- (a) that each of the persons named in the list this day before the Board is a member of The State Bar of California;
- (b) that each such person has failed to fully pay fees, penalties, and/or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.3, 6140.35, 6140.5 (c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;
- (c) that there has been sent to each such person, two months' written notice of his or her delinquency which included notice of section 6143;
- (d) that as shown by the records of the State Bar, the address of each such person is as set forth herein;
- (e) and hereby recommends to the Supreme Court of the State of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, effective July 1, 2009, until such time as he or she may be reinstated, upon the payment of the delinquent fees, penalties, and/or costs and of such additional fees, penalties and/or costs as may have accrued at the time of such payment, in the form attached to these minutes, and made a part hereof, and it is

FURTHER RESOLVED, that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary or her designee is authorized and directed to strike from the foregoing list the name of any member of the State Bar who by proper remittance (e.g., credit card accepted by the State Bar, cash, cashier's check, money order, bank certified check, or wire transfer) and prior to the effective date of the Supreme Court order of suspension based hereon, pays to the State Bar fees, penalties, and/or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of the fact of such payment and of the consequent withdrawal of the Board's recommendation for suspension; and it is

FURTHER RESOLVED that for the purpose of modifying the recommendation to the Supreme Court for suspension for nonpayment of fees, penalties, and/or costs, the Secretary or her designee is authorized and directed to change the data as to status or the amounts of delinquency on said list and will forthwith notify the Clerk of the Supreme Court accordingly of the consequent modification of the Board's recommendation for suspension.

BOARD RESOLUTION

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

RESOLVED, upon recommendation of the Board Committee on Member Oversight, that the Board hereby ascertains and determines:

- (a) that each of the persons named in the list this day before the Board is a member of The State Bar of California;
- (b) that each such person has failed to fully pay fees, penalties, and/or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.3, 6140.35, 6140.5 (c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;
- (c) that there has been sent to each such person, two months' written notice of his or her delinquency which included notice of section 6143;
- (d) that as shown by the records of the State Bar, the address of each such person is as set forth herein;
- (e) and hereby recommends to the Supreme Court of the State of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, effective July 1, 2009, until such time as he or she may be reinstated, upon the payment of the delinquent fees, penalties, and/or costs and of such additional fees, penalties and/or costs as may have accrued at the time of such payment, in the form attached to these minutes, and made a part hereof, and it is

FURTHER RESOLVED, that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary or her designee is authorized and directed to strike from the foregoing list the name of any member of the State Bar who by proper remittance (e.g., credit card accepted by the State Bar, cash, cashier's check, money order, bank certified check, or wire transfer) and prior to the effective date of the Supreme Court order of suspension based hereon, pays to the State Bar fees, penalties, and/or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of the fact of such payment and of the consequent withdrawal of the Board's recommendation for suspension; and it is

FURTHER RESOLVED that for the purpose of modifying the recommendation to the Supreme Court for suspension for nonpayment of fees, penalties, and/or costs, the Secretary or her designee is authorized and directed to change the data as to status or the amounts of delinquency on said list and will forthwith notify the Clerk of the Supreme Court accordingly of the consequent modification of the Board's recommendation for suspension.