

AGENDA ITEM

January 54-151

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: December 11, 2009

TO: Board Committee on Member Involvement, Relations & Services,
Board of Governors

FROM: Paul Kramer, Membership Liaison
Jon Streeter, Membership Liaison
Patrick Kelly, 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 (H) 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 Dina DiLoreto, 415/538-2121 or dina.diloreto@calbar.ca.gov.

ISSUE

Do the Committee on Member Involvement, Relations, and Services (MIRS) 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? MIRS 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 (H) 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 (H) and have made recommendations to MIRS 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.

David 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 placed on administrative inactive status for MCLE noncompliance on September 3, 2002. Member was reinstated from MCLE noncompliance on May 29, 2009. Member's request is based on financial hardship. Member has submitted federal and/or state income tax records for 2006, 2007 and 2008, as well as documentation pertaining to his approval for food stamps and Section 8 housing for 2009.

Member states that he is not sure what membership status he would like to return to, but will probably want to be Inactive.

Recommendation: Contingent on payment of \$1,675.57 within 60 days of notice to member, waiver of remaining balance for total waiver of \$3,401.93.

FISCAL IMPACT

This is the first Membership Liaison request submitted for membership year 2010. This item contains one recommendation. If the recommended adjustments below are approved, the year to date fiscal impact will be \$3,401.93.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

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

RECOMMENDATIONS AND RESOLUTIONS

Should MIRS concur with each recommendation of the Membership Liaisons, it would be in order to adopt the following resolutions:

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

David Zvonko Skuljan: Contingent on payment of \$1,675.57 (one-third of outstanding balance) within 60 days of notice to member, waiver of remaining balance; total waiver of \$3,401.93.

PROPOSED BOARD RESOLUTIONS

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

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

David Zvonko Skuljan: Contingent on payment of \$1,675.57 (one-third of outstanding balance) within 60 days of notice to member, waiver of remaining balance; total waiver of \$3,401.93.