

Pursuit *Collection* Policy for Court-Ordered Discipline Costs and CSF Obligations

(a) Section 1 Purpose

~~Before April 1, 2007, discipline costs or restitution to Client Security Fund (CSF) ordered against a disciplined lawyer were collected either by including the amount in the billing of the annual membership fees or requiring payment as a condition of reinstatement. On January 1, 2004, changes in the State Bar Act provided that discipline costs and CSF restitution orders could be enforced as money judgments in the civil courts. With the Supreme Court's approval of Rule 9.23 of the California Rules of Court, effective April 1, 2007, the State Bar may now obtain automatic judgments for court-ordered discipline cost and Client Security Fund obligations. The goal of this policy is to have an aggressive, but fair policy to promote resolution of discipline costs and CSF obligations as quickly as possible, to utilize available tools effectively and efficiently collect these debts owed by disciplined California lawyers.~~

This is an internal policy intended to provide a standard to State Bar staff in the collection from disciplined lawyers of court ordered discipline costs and restitution to the Client Security Fund. Nothing in this policy may be construed as relieving a disciplined lawyer from those obligations or extending the time to make payments as part of the membership fees or as a condition of reinstatement or the return to the active practice of law except as may be ordered by the Supreme Court or State Bar Court.

(b) Section 2 Definitions

(1) "Discipline costs" are the amounts that a member ***of the State Bar*** must pay to the State Bar under Business and Professions Code section 6086.10.

(2) "CSF restitution" refers to amounts that a member must pay to the State Bar under Business and Professions Code section 6140.5, subdivision (d).

(3) "Debtor" means ~~a member of the State Bar of California who must pay discipline cost to the State Bar or CSF restitution under a discipline order by the Supreme Court or the State Bar Court or an order of the Supreme Court accepting the member's resignation with charges pending.~~

(A) a member who has been disbarred or who resigned with disciplinary charges pending and owes court ordered discipline costs or CSF restitution;

(B) a member publicly reproved or suspended who is delinquent in paying court ordered discipline costs or CSF restitution that has

been added to his or her membership fee billing or in making payment under a court approved payment agreement.

(4) "Debt" refers to discipline costs, CSF restitution, or both ***owed by a debtor.***

(5) "Collection agency" means a vendor providing collection services under a participating agreement with the State Bar under the Statewide Master Vendor Agreements for Collection Services as part of the Enhanced Collections program of the Judicial Council of California, Administrative Office of the Courts.

(c) Section 3 No Action ("Do Not Pursue" "Hold" Status)

The State Bar may designate a matter as ~~"do not pursue"~~ ***on "hold" status*** and take no further action against a debtor to enforce a debt under any one of the following reasons:

(1) The debtor is making timely payments and is not in default under a payment plan approved by the State Bar Court or Supreme Court

(2) The debtor discharged the obligation in bankruptcy between May 10, 2001 and January 1, 2004, in reliance on *In Re Taggart*, 249 F.3d 987 (9th Cir. 2000)

(3) The debtor is deceased and the estate has no assets

(4) The expense to enforce the debt is likely to exceed the amount expected to be collected; or,

(5) Other good cause as determined by the General Counsel.

(d) Section 4 Pursuit Guidelines ***Debt Collections***

~~Debts not designated as "do not pursue" under section 3 will be enforced under the following guidelines.~~

~~(1) Report debtor to credit reporting or collection agencies if:~~

~~(A) The debt is older than 10 years; or~~

~~(B) The debt or aggregate debts are less than \$500.~~

~~(2) File judgments, obtain abstracts of judgment, and record liens against debtors who owe discipline costs and CSF restitution and~~

~~(A) The debt is less than 10 years and~~

~~(B) The debt or aggregate debt is \$500 or more.~~

~~(3) Pursue further enforcement of judgment mechanisms as appropriate where the judgment debtor and assets have been located.~~

(1) Debts not designated as on “hold” will be referred for collection by one or more collection agencies.

(2) The State Bar may accept installment payments by a debtor to the collection agency after notice to the debtor that

(A) installment payments to the collection agency do not constitute an extension of time (i) to pay delinquent discipline costs or CSF restitution as part of the membership fees before a suspension for nonpayment or (ii) for payment as a condition of reinstatement or the return to the active practice of law;

(B) installment payments to the collection agency do not constitute (i) relief from the court order imposing discipline costs or CSF restitution or (ii) the compromise of any judgment; and

(C) an extension of time or relief under Business and Professions Code sections 6086.10 and 6140.7 may be granted only by motion filed in the State Bar Court.

~~(e) Section 5 Compromise~~

~~These guidelines do not preclude the State Bar from granting relief under Rules 282 and 285 of the Rules of Procedure and Rule 9.23(c) of the California Rules of Court.~~

(e) Uncollectible debts

(1) When a debt account has been returned uncollected by a collection agency, the State Bar should assure that an applicable judgment under Business and Professions Code section 6086.10 or 6140.5 has been entered and recorded for debts less than 10 years old and \$500 or more. The State Bar may then designate the debt as “uncollectible” and take no further action to enforce the debt except for the renewal of any judgment and the payment as a condition of any reinstatement or return to membership .

(2) A debt may be removed from “uncollectible” status and referred back to a collection agency if a debtor or assets has been located or if there is other reason to believe that there has been a change in the economic condition of the debtor.

(Source: Board of Governors' Resolution, July 2007, amended _____, 2010.)

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