

AGENDA ITEM

MAY 54-132

Member Request for Adjustment
to Fees and/or Penalties/Waivers

DATE: April 21, 2011

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

FROM: Subcommittee Membership Fee Waivers
Clark E. Gehlbach
Karen M. Goodman
Luis J. Rodriguez

SUBJECT: Members' Request for Adjustments to Fees and Penalties that Have
Been Considered by the Subcommittee Membership Fee Waivers,
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 Subcommittee Membership Fee Waivers 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.

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 members of the Subcommittee Membership Fee Waivers have reviewed the waiver requests that come under Rule 2.16 (H) and have made recommendations to

MOC and the Board of Governors where the Subcommittee 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.

ISSUE

Do the Board Committee on Member Oversight (MOC) and the Board of Governors agree with the recommendations of the Subcommittee Membership Fee Waivers that good cause exists to grant the requests for fee adjustments for the State Bar member(s) listed below? MOC and the Board of Governors may deny or agree in whole or in part with any of the Subcommittee's recommendations.

DISCUSSION

The following member(s) 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 member(s) have appealed to the Subcommittee Membership Fee Waivers. The Subcommittee has determined that good cause exists to recommend the adjustments.

Sarah deRochemont (#121246) Admitted December 10, 1985. Member is currently on Not Eligible status for a failure to pay membership fees, MCLE noncompliance, and family/child support noncompliance. Member is requesting a full waiver of all outstanding membership fees and related penalties. Member's request is based on financial hardship caused by job loss and general economic decline. Member says she was eligible for a financial fee waiver from 2009 through 2011, but was unaware of such an option. Member is in the process of completing her MCLE requirement. Member has submitted a letter of explanation, a financial declaration, a copy of her approval for food stamps from Stanislaus County, and proof of her enrollment in the Stanislaus County Indigent Health Care Program.

FISCAL / PERSONNEL IMPACT:

This is the first Subcommittee Membership Fee Waivers request submitted for membership year 2011. This item contains one recommendation. If the recommended adjustments below are approved, the year to date fiscal impact will be \$1,120.

RULE AMENDMENTS:

None

BOARD BOOK IMPACT:

None

RECOMMENDATION

Upon payment of \$410 for the 2011 Active membership fees, waive member's 2009 and 2010 membership fees and penalties in the amount of \$1,120.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Member Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Member Oversight Committee recommends that the Board approve the fee adjustments for the following State Bar member(s) as noted below:

Sarah deRochemont (#121246): Upon payment of \$410 for the 2011 Active membership fees, waive member's 2009 and 2010 membership fees and penalties in the amount of \$1,120.

PROPOSED BOARD RESOLUTION:

Should the Board concur with the Member Oversight Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the fee adjustments for the following State Bar member(s) as noted below:

Sarah deRoachemont (#121246): Upon payment of \$410 for the 2011 Active membership fees, waive member's 2009 and 2010 membership fees and penalties in the amount of \$1,120.