

AGENDA ITEM

DECEMBER 10 - Board of Governors – November 4, 2011 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF GOVERNORS MEETING

LOS ANGELES, CALIFORNIA

FRIDAY, NOVEMBER 4, 2011

The Board of Governors of The State Bar of California convened at 1:30 p.m. in open session in the Board Room of the State Bar's Los Angeles offices, 1149 South Hill Street, Los Angeles, California, 90015, on Friday, November 4, 2011 Jon B. Streeter presiding.

The following members of the Board of Governors were present: Lowell Carruth, Alec Y. Chang, George O. Davis, Samson Elsbernd, Jeannine English, Nancy Fineman, William Gailey, Clark Gehlbach, Karen M. Goodman, Cheryl L. Hicks, Craig Holden, Patrick M. Kelly, Wells Lyman, Dennis Mangers, Pearl Mann, Gwen Moore, Gretchen Nelson, Luis J. Rodriguez, Heather Linn Rosing and Mark Shem.

The following members of staff were present: Starr Babcock, Resty Buenavidez, Laila Bartlett, Dina DiLoreto, Joseph Dunn, Mary Lavery Flynn, Francisco Gomez, Teri Greenman, Robert A. Hawley, Jayne Kim, Gayle Murphy, Sonja Oehler, Cathy Torney, Peggy Van Horn, and Colin Wong.

Also present for portions of the meeting: Jennifer Wada

The roll-call vote was taken, and upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the roll-call vote will be substituted for the vote unless otherwise noted.

10 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the minutes of the regular meeting of the Board of Governors held on Friday, July 22, 2011, in San Francisco, California, hereby are approved as written.

RESOLVED, that the minutes of the special meeting of the Board of Governors to elect the State Bar President held on Friday, July 22, 2011, in San Francisco, California, hereby are approved as written.

RESOLVED, that the minutes of the special meeting of the Board of Governors held on Thursday, August 11, 2011, in Los Angeles, & San Francisco, California and by conference call, hereby are approved as written.

RESOLVED, that the minutes of the special meeting of the Board of Governors held on Tuesday, August 30, 2011, in Los Angeles & San Francisco, California and by conference call, hereby are approved as written.

RESOLVED, that the minutes of the regular meeting of the Board of Governors held on Saturday, September 17, 2011, in Long Beach, California, hereby are approved as written.

RESOLVED, that the minutes of the organizational meeting of the Board of Governors held on Sunday, September 18, 2011, in Long Beach, California, hereby are approved as written.

RESOLVED, that the minutes of the special meeting of the Board of Governors held on Wednesday, October 5, 2011, in Los Angeles & San Francisco, California and by conference call, hereby are approved as written.

All members listed on the slip voted yes.

30 Mr. Streeter thanked staff for a fantastic Annual Meeting and spoke to the critical issue of funding for the State Courts. Mr. Streeter advised the Board that he would participate in several hearings on court funding to be held in different parts of the state in order to highlight court closures, access to justice, and the effect on the public.

Mr. Streeter informed the Board that he had initiated monthly "Presidents" call with the leadership of voluntary bars throughout the state in order to better communicate with the members and to assist the court through this network.

Mr. Streeter updated the Board on his speaking engagements before local bars and upcoming events, including a visit from the Mark Robinson the American Bar Association President.

Mr. Streeter asked the Board to affirm the following items under his President's report.

30-1 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that Samson Elsbernd is declared elected by the CYLA Board as a 2011-2012 members of the Board of Governors of The State Bar of California.

All members listed on the slip voted yes except Mr. Elsbernd who abstained.

30-2 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board affirms that all regularly scheduled meetings of the Board be held as listed on the attached meeting schedule.

All members listed on the slip voted yes.

30-3 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board hereby affirms the attached Board Liaison Assignments for the 2011-2012 Board year.

All members listed on the slip voted yes.

41/42 Mr. Dunn introduced Jennifer Wada, the State Bar's legislative advocate, who reviewed State Bar bills of interest and advised that the deadline for introducing new legislation was at end of January 2012 and consequently the new State Bar Fee Bill would be introduced. Ms. Wada explained that the election year politics and the recent redistricting would affect the coming legislative session.

Mr. Dunn thanked the board and the management team for their work coming work during the next twelve weeks, including the CCMS letter of intent, implementation of the incentive separation, final phases of negotiating the contract with the new communications executive and the recent labor negotiations.

Mr. Streeter called for public comment, inquiring as to whether there were persons in attendance who wished to comment on a particular item on the agenda. No one present requested comment.

50 All items on the consent agenda were presented to the Board, and no objection being raised thereto, the following items on the consent agenda were deemed unanimously adopted.

51, 52, 53 51 - Financial Statement for the Quarter Ended September 30, 2011

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the financial statement for the quarter ended September 30, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

52 - Investment Report for the Quarter Ended September 30, 2011

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the investment report for the quarter ended September 30, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar

53 - Client Security Fund Report for the Quarter Ended September 30, 2011

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the Client Security Fund report for the quarter ended September 30, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-151

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby adds an Organization category and clarification to existing language to the Diversity Awards; and it is

FURTHER RESOLVED, that the Board amends the Awards Guidelines and Nomination Form as set forth in the form attached to the minutes and made a part thereof.

54-161

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby hereby approves the creation of an appointment by the Supreme Court of California to the California Commission on Access to Justice, effective immediately.

111

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby amends the Rules and Regulations Pertaining to the Employment of Confidential Employees and the Rules and Regulations Pertaining to the Employment of Executive Staff in the form attached hereto effective January 1, 2012.

All members listed on the roll call slip voted yes.

112

This was discussed and action taken in closed session and reported in open session. Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that, the Board Committee on Operations recommends that the Board of Governors adopt the Executive Directors Performance Evaluation Report for 2010-11 as the annual evaluation of the Executive Director for this period.

RESOLVED, that Board Committee recommends that the Board of Governors authorize payment to the Executive Director of the merit incentive payment under Section V.C. [Compensation & Payment] of the Executive Director's contract.

All members listed on the roll call slip voted yes.

113 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that no public comment being required and upon the recommendation of the Board Committee on Operations, the Board of Governors hereby adopts the organizational changes to Title 3 and Title 7 of the Rules of the State Bar identified in Appendix A and the changes to the rule numbers for providers of continuing legal education identified in Appendix B, in the form attached and made a part hereof, effective immediately; and it is

FURTHER RESOLVED that no public comment being required and upon the recommendation of the Board Committee on Operations, that the Board of Governors hereby adopts the changes to the lawyer referral service rules identified in Appendix C, in the form attached and made a part hereof, and directs staff to transmit the changes identified in Appendix C to the California Supreme Court for consideration and approval.

All members listed on the roll call slip voted yes.

114 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves the execution of the letter of intent between the Administrative Office of the Courts, the State Bar of California, and the Chan Soon-Shiong Family Foundation, under the terms of the draft attached hereto with a start date of on or about November 14, 2011, and an end date no later than February 17, 2012.

All members listed on the roll call slip voted yes except Jeannine English and William Gailey who voted no.

121 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Committee on Regulation, Admissions and Discipline Oversight, the Board hereby approves the proposed amendment to rule 2409, Rules of Procedure of the State Bar, as set forth in Attachment A, following its return from public comment.

All members listed on the roll call slip voted yes.

131 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following consideration of public comments received and upon the recommendation of the Member Oversight Committee, that the Board hereby adopts the amendment to Rule 2.54 of the State Bar Rules, in the form attached as Attachment A, effective immediately.

All members listed on the roll call slip voted yes.

132 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following publication for comment and consideration of the three comments received, and upon recommendation of the Member Oversight Committee, the Board hereby approves the proposed amendments to Rule 9.6 of the California Rules of Court regarding expungement of an MCLE involuntary inactive enrollment and to State Bar Rule 2.32 of Title 2, Division 1 and State Bar Rule 2.50 of Title 2, Division 4, in the form attached and directs staff to transmit the proposal to the Supreme Court with a recommendation of approval of the amendments to Rule 9.6.

All members listed on the roll call slip voted yes.

133 Upon motion made, seconded and unanimously adopted, it was

RESOLVED: that the Board hereby ascertains and determines that each of the persons named in the list this day before the Board is a member of the State Bar of California who meets the criteria for expungement set forth in California Rule of Court 9.6; and

FURTHER RESOLVED: that upon the recommendation of the Member Oversight Committee, the Board of Governors recommends to the California Supreme Court that each such person's suspension for nonpayment of fees be expunged from the membership records of the State Bar; and

FURTHER RESOLVED: that, upon the Court's order of expungement, staff is directed to immediately expunge the suspensions from the membership records and notify each member of the Court's order and the expungement.

All members listed on the roll call slip voted yes.

142 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby approves the adjustments in Legal Specialization fees, in the form attached hereto, effective January 1, 2012.

All members listed on the roll call slip voted yes.

143 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Committee on Planning, Program Development and Budget, the Board of Governors authorizes staff to proceed with the contracts identified in the item before the Board this date, within the parameters set forth.

All members listed on the roll call slip voted yes except Nancy Fineman who abstained.

144 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that no public comment being required and upon the recommendation of the Planning, Program Development and Budget Committee, the Board of Governors hereby adopts the changes identified in Appendix A to conform the Rules of the State Bar to specific changes in law enacted by Senate Bill 163 (2011 Statutes, Chapter 417) by changing "Board of Governors" to "Board of Trustees", in the form attached and made a part hereof, to be effective January 1, 2012.

All members listed on the roll call slip voted yes.

162 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby approves the following Section legislative proposals for introduction as section-sponsored legislation: BLS-2012-01, BLS-2012-02, BLS-2012-03, BLS-2012-04, T&E-2012-05, T&E-2012-06, T&E-2012-07, T&E-2012-08, T&E-2012-09.

All members listed on the roll call slip voted yes.

The Board went into closed session at 2:30 p.m. and those other persons present left the meeting.

The Board resumed open session at 3:00 p.m.

The Board considered the appointments in closed session and the action taken is reported below.

The closed consent appointment agenda was presented to the Board and, no objection being raised thereto, all below consent matters were deemed unanimously adopted.

- 6011 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board of Governors hereby reappoints the fee arbitrators whose names appear on the list attached hereto as Attachment A to the State Bar Fee Arbitration Program, each for a one-year term commencing January 1, 2012, and expiring December 31, 2012; and it is
- FURTHER RESOLVED that the Board hereby appoints the applicants whose names appear on the list attached hereto as Attachment B to the State Bar Fee Arbitration Department, each for a term commencing November 4, 2011, and expiring December 31, 2012; and it is
- FURTHER RESOLVED that the Board hereby reappoints Joel Mark, Oxnard, as the State Bar's Presiding Arbitrator for a term effective January 1, 2012, and expiring December 31, 2012.
- 6012 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby reappoint Hon. Ronald B. Robie, Sacramento, Chair, and appoint Joanne Caruso, Los Angeles, Vice Chair, California Commission on Access to Justice, each term to commence January 1, 2012, and to expire December 31, 2012, or until further order of the Board, whichever occurs earlier.
- 6013 **RESOLVED**, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Lani L. Biafore, Sacramento, Secretary, Criminal Law Section Executive Committee, effective immediately, for a term expiring at the close of the 2012 State Bar Annual Meeting (i.e., October 14, 2012), or until further order of Board, whichever occurs earlier.
- 6014 **RESOLVED**, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints William R. Seligman, Santa Cruz, member, Litigation Section Executive Committee, effective immediately, for a term expiring at the close of the 2014 State Bar Annual Meeting (i.e., September 14, 2014), or until further order of the Board, whichever occurs earlier.

- 6015 **RESOLVED**, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Ricardo A. Goñi, West Sacramento, member, Board of Legal Specialization, effective immediately, for a term expiring at the close of 2014 State Bar Annual Meeting (i.e., September 14, 2014), or until further order of the Board, whichever occurs first.
- 6016 RESOLVED, upon the recommendation of the Nominations and Appointments Committee, that the Board hereby appoints Steven R. Guess, Los Angeles, member, Board of Directors of Legal Aid Society of Orange County & Neighborhood Legal Services of Southeast Los Angeles County for a three-year term commencing December 1, 2011, and expiring November 30, 2014, or until further order of the Board, whichever occurs earlier.
- 6017 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Wendy T. Wu, Los Angeles, member, Client Security Fund Commission, effective immediately, replacing Jayne Kim, Los Angeles, declined, for a term expiring at the close of the 2014 State Bar Annual Meeting, i.e., September 14, 2014, or until further order of the Board, whichever occurs earlier.
- 6018 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Joseph N. Patrico, San Diego, member, Workers' Compensation Section Executive Committee, effective immediately, replacing Steven W. Siemers, resigned, for the remaining portion of Mr. Siemers' term (i.e., October 14, 2012), or until further order of the Board, whichever is earlier.
- 6019 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Elizabeth G. Pianca, San Jose, member, Public Law Section Executive Committee, effective immediately, for a term to expire at the close of the 2014 State Bar Annual Meeting (i.e., September 14, 2014; and it is
- FURTHER RESOLVED, that the Board appoint Raquel Prieguez, San Diego, Secretary, Public Law Section Executive Committee, effective immediately, replacing Inga Lintvedt, Oakland, declined, for the remaining portion of Ms. Lintvedt's term (i.e., October 14, 2012), or until further order of the Board, whichever occurs earlier.

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints or reappoints, as the case may be, the following members to the Board of Directors of the California Bar Foundation, each for a two-year term commencing January 1, 2012, and expiring December 31, 2013, or until further order of the Board, whichever occurs earlier:

Reappointment

Holly Fujie, Los Angeles
Martha K. Gooding, Irvine
Justin Miller, San Francisco
Thomas Silk, San Francisco
Christy Susman, San Rafael
Paul Tepper, Los Angeles
Richard Tom, Rosemead
S. Nancy Whang, Los Angeles

New Appointment

Alec Y. Chang, Palo Alto
Julia De Beers, Los Angeles
Sandra S. Fujiyama, Los Angeles
Steven H. Goldberg, Sacramento
Geoffrey T. Holtz, San Francisco
Amy M. Ross, San Francisco
Julie Taylor, San Francisco
Shawn A. Williams, San Francisco

All members listed on the roll call slip voted yes except Alec Chang and Nancy Fineman who abstained.

The Board resumed open session at 3:00 p.m. and the meeting was adjourned.

The Board may meet again at the call of the President at any time prior to the next regularly scheduled meeting of the Board, or, if no such meeting be called, the State Bar's Los Angeles offices, 1149 South Hill Street, Los Angeles, California, 90015, on Friday, February 10, 2012 at a time to be determined.