

AGENDA ITEM

MAY 10 - Board of Trustees – March 2, 2012 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF TRUSTEES MEETING

LOS ANGELES, CALIFORNIA

FRIDAY, March 2, 2012

The Board of Trustees 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, March 2, 2012, Jon B. Streeter presiding.

The following members of the Board of Trustees were present: Lowell Carruth, Alec Y. Chang, George O. Davis, Samson Elsbernd, Nancy Fineman, Clark Gehlbach, Karen Goodman, Cheryl L. Hicks, Craig Holden, Patrick M. Kelly, Loren Kieve, 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, Randy Difuntorum, Joseph Dunn, Mary Lavery Flynn, James Fox, 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 Trustees held on Friday, February 10, 2012 in Los Angeles, California, hereby are approved as written.

All members listed on the slip voted yes except Pearl Mann who abstained.

The President announced the date for the Special Meeting for the Election of the 2012-2013 State Bar President, as Friday, July 20, 2012, in San Francisco, immediately preceding the regular Board Meeting and added that the Secretary's Office would circulate an email to the Board explaining the timing and deadlines for candidates.

The President summarized his activities since the last Board meeting:

He reported that although the Board had a preliminary discussion regarding Assembly Bill 1208 at its February meeting, the bill was evolving and that it could wind up in a different form following possible amendment in the Senate.

Mr. Streeter reported he had been working with bar leaders to organize another rally in San Francisco "Stand Up for Justice" on April 18. In addition, he expressed his appreciation for all of those involved, as they are keeping the issue of court funding at the forefront.

He reported that he had the pleasure of giving out several awards and appointments including the nomination of Trustee Loren Kieve to the ABA Standing Committee on Federal Courts, 9th Circuit and that he had nominated Cheryl Hicks and Alec Chang for the Applicant Evaluation & Nomination Committee (State Bar Court selection and nominating committee).

Mr. Streeter expressed that the Task Force on Admissions Regulation Reform could be an important way to study current law school practical skills training programs and/or requirements and to explore the advisability of adding a pre-admission practical skills requirement as a condition for the admission to practice law in California. He stated his appreciation for the Board's interest and that he hopes to appoint the Task Force and develop a more specific charge and timeline. To this end, the Board will meet on April 9 to consider this matter.

Mr. Streeter reported that he attended the public hearing conducted by the ABA Commission on Ethics 20/20 at the midyear meeting in New Orleans and that the commission is studying the impact of technology and globalization on the U.S. legal profession, and may propose changes to the ABA Model Rules of Professional Conduct and other policies relating to lawyer regulation. Mr. Streeter stated his hope that the State Bar makes an effort to assure that its rules and ethics address the impact of these issues.

Lastly, Mr. Streeter announced that in future Board and Board Committee meetings would be held on a back-to-back basis in order to make meetings more efficient and to be respectful of the Trustee's time.

41/42 Mr. Dunn presented Jennifer Wada, the State Bar's Legislative Advocate, who presented bills of interest to the State Bar. Ms. Wada advised the State Bar's Fee bill would be introduced in the coming week.

Mr. Dunn spoke about meeting with the legislature regarding State Bar's various restricted funds, the strategic plan and associated budgets.

Mr. Dunn reported on follow-ups to the MCLE compliance audit, including any submitted false compliance certifications that will be vetted by staff and referred to the Office of the Chief Trial Counsel. In regards to the auditing of MCLE providers, Mr. Dunn advised that staff is looking at regulatory authorities and exploring possible rule changes.

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 asked to 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.

54-131 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:

Paulo A. Almeida (#279168) Grant member an extension until September 1, 2012 to pay his membership fees and waive member's late payment penalty in the amount of \$100.

Dagny Andreassen (#51837) Waive member's 2012 Inactive membership fees in the amount of \$115.

David Bekhour (#249261) Waive member's 2012 Active membership fees in the amount of \$400.

Larry G. Bryngelson (#140756) Waive 50% of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice, to avoid late payment penalty.

Elissa Eckman (#127666) Waive 50% of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice, to avoid late payment penalty.

Susan Holland (#122399) Waive 50% of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice, to avoid late payment penalty.

Frank C. Lincoln (#151684) Waive 50% of member's 2012 Active membership fees in the amount of \$200 with payment of balance due within 10 days of notice, to avoid late payment penalty.

Glen Patterson (#87562) Waive member's 2012 Inactive membership fees in the amount of \$115.

54-141

RESOLVED, upon recommendation of the Board Planning, Program Development, & Budget Committee, that the Board hereby receives the Investment Report for the year ended December 31, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

RESOLVED, upon recommendation of the Board Planning, Program Development, & Budget Committee, that the Board hereby receives the Client Security Fund report for the year ended December 31, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-161

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2012 through June 30, 2013 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$10,685,829 calculated as follows:

- (1) \$4.5 million from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July 2011 through June 2012;
- (2) \$2,230,829 from net assets/reserve
- (3) \$4.5 million from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July 2011 through June 2012;
- (4) \$2,230,829 from net assets/reserve;
- (5) \$3.25 million from total contributions on the member dues bill, including donations to the Justice Gap Fund in the amount of \$750,000, and contributions to the TELS in the amount of \$2.5 million;

- (6) \$4.5 million from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July 2011 through June 2012;
- (7) \$2,230,829 from net assets/reserve;
- (8) \$3.25 million from total contributions on the member dues bill, including donations to the Justice Gap Fund in the amount of \$750,000, and contributions to the TELS in the amount of \$2.5 million;
- (9) \$2 million contribution from State Bar reserves;
- (10) \$4.5 million from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July 2011 through June 2012;
- (11) \$2,230,829 from net assets/reserve;
- (12) \$4.5 million from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July 2011 through June 2012;
- (13) \$2,230,829 from net assets/reserve;
- (14) \$3.25 million from total contributions on the member dues bill, including donations to the Justice Gap Fund in the amount of \$750,000, and contributions to the TELS in the amount of \$2.5 million;
- (15) \$2 million contribution from State Bar reserves;
- (16) \$355,000 in other revenue, including investment income and reimbursement for administration of the Equal Access Fund;
- (17) Less administrative costs, projected at \$1,650,000 for the period July 1, 2012 through June 30, 2013; and it is

FURTHER RESOLVED, that grant payments are to be made from funds received pursuant to California Business and Professions Code, Sections 6212 et seq. and Section 6033, and that payment of grants is contingent upon the State Bar having sufficient money on hand, after deducting for administrative costs, from such sources to make the scheduled payments; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Program is directed to monitor program revenue during the grant year, and to recommend changes to the grant amount, if necessitated by significant variances between projected and actual revenue.

111 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 hereby adopts the editorial changes to State Bar Rule 1.5(B); Rule 2.16(G); Rule 3.242(A); and Rule 2.420(A) in the form attached, effective immediately; and

FURTHER RESOLVED that, no public comment being required and upon recommendation of the Board Committee on Operations, the Board of Trustees hereby adopts the editorial changes to State Bar Rule 3.158(A); Rule 3.159; Rule 3.170; Rule 3.172; and Rule 3.179 in the form attached, and instructs staff to transmit the rules to the California Supreme Court for consideration and final action.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby rejects the Challenge to Mandatory Membership Fees submitted by Matt McLaughlin.

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 State Bar pursuit of proposed amendments to the Business and Professions Code to reconcile statutory language concerning transition to a 19-member board, and election of the president, vice president, and treasurer, consistent with the intent of the proposed statutory amendments attached hereto.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Operations Committee, the Board hereby adopts the recommended amendment to the contract authority process that appears in the Board Book at Tab 17, Article 3, Section 2.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby receives the report and thanks staff for its submission of the Lawyer Assistance Program 2011 Annual Report in the form this day before the Board.

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 of Trustees hereby requires that an applicant for funding file its audited or reviewed financial statement promptly when available, and in no event more than sixty (60) days after the application deadline, and prior to receipt of any allocation, and this deadline be added to the Schedule of Charges and Deadlines, effective March 2, 2012; and it is

FURTHER RESOLVED, that the Board Committee on Planning, Program Development and Budget hereby recommends that the Board of Trustees require recipients of funding to submit within 90 days of the close of their fiscal year an audited or reviewed financial statement, and this deadline be added to the Schedule of Charges and Deadlines, effective March 2, 2012.

All members listed on the roll call slip voted yes.

144 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 authorizes staff to proceed with the amendment to the Milliman Actuary contract in a form approved by the Office of General Counsel, within the parameters set forth.

All members listed on the roll call slip voted yes.

The Board went into closed session at 2:48 p.m. and those other persons present left the meeting.

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 Trustees hereby appoints the following fee arbitrators to the State Bar Fee Arbitration Department, each for a term commencing March 5, 2012, and expiring December 31, 2012:

<u>Name</u>	<u>County</u>	<u>Bar Number or Layperson</u>
Bajwa, Preeti K.	Sacramento	232484
Beaudry, Sally A.	Placer	162692
Hamilton, Kelly Jean	Shasta	182866
Munoz, William Angelo	Sacramento	191649
Zukerman, Roy C.	Orange	36249

6012 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Lorna Voboril, Fair Oaks, member, Workers' Compensation Section Executive Committee, member, effective immediately, replacing Joseph Patrico, resigned, for the remaining portion of Mr. Patrico's term (i.e., October 14, 2012), or until further order of the Board, whichever occurs earlier.

6013 RESOLVED, upon recommendation of the Nominations and Appointments Committee, that the Board hereby appoints the following members to Criminal Law Section Executive Committee, effective immediately, each for a term expiring at the close of the 2012 State Bar Annual Meeting (i.e., October 14, 2012), or until further order of the board, whichever occurs earlier: Stephen I. Goorvitch of Los Angeles, replacing Terry White, resigned, and Christopher Honigsberg of Santa Rosa, replacing Lani Biafore, resigned.

6015 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints James I. Ham, Los Angeles, member, Board of Directors of California Indian Legal Services, for a three-year term, commencing on December 16, 2011, and expiring December 15, 2014, or until further order of the Board, whichever occurs earlier.

6016 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints the following to the Law School Council, each for a term effective immediately and expiring upon the final day of the 2014 State Bar Annual Meeting (i.e., September 14, 2014), or until further order of the Board, whichever occurs earlier: Genie deFreitas, Dean, Honolulu School of Law, replacing Dean Robert Carp; Jeffrey Brand, Dean, University of San Francisco School of Law, replacing Dean Kevin Cole; and Bryant Garth, Dean, Southwestern School of Law, replacing Dean Allen Easley.

- 6021 RESOLVED, that the Nominations and Appointments Committee. recommends that the Board appoint or reappoint, as the case may be, the following, State Bar delegates, American Bar Association (ABA) House of Delegates, contingent upon appointees being of good standing with the ABA, effective upon the conclusion of the 2012 ABA Annual Meeting (August 7, 2012) and expiring at the conclusion of the 2014 ABA Annual Meeting (August 12, 2014), or until further order of the Board, whichever occurs earlier: Ruthe Ashley, Rocklin; Alyssa Ehrlich, San Diego; Ernestine Forrest, Los Angeles; Steven K. Hazen, Los Angeles; Malissa Hathaway McKeith, Los Angeles; and Mark Schickman, San Francisco; and it is
- FURTHER RESOLVED, that that the board committee recommends that the Board appoint the following, to serve as alternates to its delegation to the ABA House of Delegates, contingent upon the alternates being of good standing with the ABA, effective upon conclusion of the 2012 ABA Annual Meeting (August 7, 2012) and expiring at the conclusion of the 2013 ABA Annual Meeting (August 13, 2013), or until further order of the Board, whichever occurs earlier: Richard Macias, Los Angeles, First Alternate; Anthony Barash, Chicago, Second Alternate; Qiang Bjornbak, Los Angeles, Third Alternate; and Pierre Zado, Sunnyvale, Fourth Alternate.
- 6022 RESOLVED, that the Nominations and Appointments Committee recommends that the Board appoint James P. Fox, San Francisco, State Bar member, Judicial Council, for a three-year term commencing September 15, 2012, and expiring September 14, 2015, or until further order of the Board, whichever occurs earlier.
- 6023 RESOLVED, that the Nominations and Appointments Committee recommends that the Board appoint Cometria Cooper, Oakland, member, Committee of Bar Examiners, replacing Sheel Seidler, resigned, effective immediately, for a term expiring at the close of the 2015 State Bar Annual Meeting (i.e., October 11, 2015), or until further order of the Board, whichever occurs earlier.

The Board resumed open session at 3:10 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 San Francisco offices, 180 Howard Street, San Francisco, California, 94105, on Friday, May 11, 2012 at a time to be determined.