

AGENDA ITEM

MAY 10 - Board of Trustees – March 7, 2013 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF TRUSTEES MEETING

SACRAMENTO, CALIFORNIA

Thursday, March 7, 2013

The Board of Trustees of The State Bar of California convened at 9:35 a.m. in open session in the Sheraton Sacramento Gardenia Room 1230 J Street Sacramento, CA 95814, on Thursday, March 7, 2013, Patrick M. Kelly presiding.

The following members of the Board of Trustees were present: Alec Y. Chang, Michael G. Colantuono, Nancy Fineman, Karen Goodman, Craig Holden, Loren Kieve, Dennis Mangers, Pearl Mann, Gwen Moore, Gretchen Nelson, David Pasternak, Luis J. Rodriguez, Heather Rosing, Mark Shem, Christopher Todd and David Torres.

The following members of staff were present: Starr Babcock, Saul Bercovitch, Resty Buenavidez, Randy Difuntorum, Joseph Dunn, Dina DiLoreto, 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 and Glenda Corcoran.

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, November 16, 2012, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustee held on Friday, January 12, 2013, in San Diego, California, hereby are approved as written.

All members listed on the slip voted yes.

30 Mr. Kelly introduced Glenda Corcoran, Senate President Pro Tem Darrell Steinberg's appointment to the Board of Trustees. Her term will begin on October 13, 2013.

Mr. Kelly advised the Board that the election of the 2013-2014 Board of Trustees officers would be held on Friday, July 19, 2013, in Los Angeles, 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.

Mr. Kelly thanked Mr. Dunn for bringing forward the "Open Courts Coalition" - a group of attorneys from around the state that has been advocating for adequate funding for the judiciary. Mr. Kelly said that he concurred with the comments that Assembly Judiciary Chair, Bob Wieckowski, made to the Board on the day prior regarding the need to affirm that the largest judiciary of any state is a co-equal branch of government and that the political branches of government had an obligation to fund the judicial branch so that it could function. Mr. Kelly emphasized that if there is no investment in the courts, then we will continue to see services to the public cut or eliminated.

Mr. Kelly expressed his pride in the State Bar's discipline system and the Board of Trustees, stating that the agency could be relied upon to provide public protection and that the Board's high level of dialogue and engagement ensures access to justice.

41/42 Mr. Dunn introduced Moises Zapien, the District 3 California Young Lawyers Association (CYLA) representative from Stockton. Mr. Zapien reported on recent CYLA activities, including, the Berman Award and training and educational collaborations with the State Bar Sections. Mr. Zapien advised the Board that the CYLA Future Committee would be meeting on Saturday, March 9, 2013, at the State Bar's Los Angeles offices and that all were welcome to attend. Mr. Zapien explained that the Futures Committee had been established to identify a CYLA regulatory purpose and was exploring possibilities in education, admissions, discipline and collaboration with other State Bar entities.

Mr. Dunn introduced the Governors' Deputy Appointments Secretary, Michael Martinez, and advised the Board that the Governor had four public member appointments to the Board of Trustees pending.

Mr. Dunn had staff distribute sample 2013 Fee Statements and asked the Board to review and consider any changes needed for a future discussion.

Mr. Dunn introduced the English and Spanish public service announcements that he has been working on with the California Broadcasters Association. The Board listened to the spots and made comment. Mr. Dunn promised to take into consideration all of the comments and that he would present revised versions to the Board at a future meeting.

Mr. Dunn introduced Jennifer Wada, the State Bar's Legislative Advocate, who reported on newly introduced legislation: AB 296 – Military Spouses: Provisional Bar Licenses; AB 267 – Evidentiary Privilege: Lawyer Referral Services; AB 888 – State Bar: Spot Bill for UPL; SB 166 – Attorneys in Delinquency Proceedings: MCLE; and SB 345 – State Bar Dues Bill.

Mr. Dunn reported that the initial interest for attendance at the 2013 State Bar Annual Meeting in San Jose is low; consequently, direct outreach to the membership might be needed.

Mr. Kelly 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.

54-111 A report was provided of action taken on November 30, 2012, by the Board Committee on Behalf of the Board between meetings, which contained the following resolution:

RESOLVED, that the Board Committee on Operations, acting on behalf of the Board of Trustees in between meetings, amends the regularly scheduled meetings of the Board be held as listed on the attached meeting schedule.

RESOLVED, that the Board of Governors hereby ratifies the action taken by the Board Committee on Operations, on behalf of the Board between meetings.

All members except Gwen Moore and Gretchen Nelson were present on November 30, 2012, and all members present, voted yes.

54-121 RESOLVED, that upon the recommendation of the Board Committee on Regulation, Admissions and Discipline Oversight, the Board hereby approves the modifications to the Notice of Client's Right to Arbitration Form in the form attached hereto effective immediately; and it is

FURTHER RESOLVED, that attorneys may use either the new or current version of the Notice of Client's Right to Arbitration Form until July 1, 2013. After July 1, 2013, only the new version of the form must be used.

54-122 RESOLVED, that following public comment and no comments having been received, and upon the recommendation of the Regulation, Admissions and Discipline Oversight Committee, the Board hereby adopts rules 3.500-3.566 of the Rules of the State Bar in the form at Attachment A, and repeals the Rules of Procedure for Fee Arbitrations and the Enforcement of Awards by the State Bar, effective July 1, 2013.

54-132 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 2012 Annual Report, in the form attached to these minutes and made a part hereof.

54-141 54-141 Investment Report for the Quarter Ended December 31, 2012

RESOLVED, that upon the recommendation of the Board Planning, Program Development, & Budget Committee, the Board hereby receives the investment report in the form this day before the Board, for the Quarter Ended December 31, 2012, 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, 2013 through June 30, 2014 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$9,617,246 calculated as follows:

- (1) \$4.5 million from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July 2013 through June 2014;
- (2) \$5,437,246 from net assets/fund balance;
- (3) \$800,000 from contributions to the Justice Gap Fund;
- (4) \$200,000 from State Bar reserves;
- (5) \$330,000 in other revenue, including investment income and reimbursement for administration of the Equal Access Fund;
- (6) Less administrative costs, projected at \$1,650,000 for the period July 1, 2013 through June 30, 2014; 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.

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

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves sponsorship of legislation to be developed to fund legal aid through a surcharge to be added to the annual membership fee statement; and it is

FURTHER RESOLVED, that the Board authorizes staff to develop a proposal for implementing this resolution, including the structure and the amount of the surcharge, subject to the approval of the Board.

All members listed on the roll call slip voted yes.

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

RESOLVED, that the Regulation, Admissions and Discipline Oversight Committee recommends that the Board approve the proposed modification to the State Bar's Policy Re Posting of Notices of Disciplinary Charges on the State Bar's Website in the form attached hereto as Attachment A.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves establishing a State Bar sponsored Health Care Program; and it is

FURTHER RESOLVED, that authority is delegated authority to the Committee on Group Insurance Programs to select Health Care Program Administrators to coordinate and administer the program.

All members listed on the roll call slip voted yes.

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

Role of President:

RESOLVED, that upon the recommendation of the Board Committee on Planning, Program Development and Budget, the Board of Trustees hereby adds the following primary roles to the duties of the President: 1) the President shall take responsibility for leading the Board and holding individual Board members accountable to the Board as a whole for their contributions to the Board's leadership of the Bar; 2) the President shall be the Board's primary spokesperson to the Executive Director to facilitate communications between the Board and staff and to ensure the Executive Director and staff are accountable to the Board; and 3) the President shall be the primary spokesperson for the Board and the Bar in discussions with the Supreme Court, the Legislature, other stakeholders, wider audiences, and the general public.

Role of Treasurer:

RESOLVED, that upon the recommendation of the Board Committee on Planning, Program Development and Budget, the Board of Trustees hereby defines the role of the Treasurer as follows:

The Treasurer of the State Bar will: 1) Serve as the Chair of the Audit Committee; 2) Be appointed by the President to serve either as Chair or Vice Chair of PPDB; 3) Consult with the Executive Director and CFO and report to the Board regarding matters involving the budget and internal financial controls; and 4) Take primary responsibility for ensuring the Board's attention to the Bar's fiscal position, budget, audit reports, and stewardship of Bar assets to ensure protection of the public.

All members listed on the roll call slip voted yes except.

The Board went into closed session at 10:30 a.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 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Glen R. Olson San Francisco, Co-Chair, Committee on Professional Liability Insurance, effective immediately, for a term expiring at the close of the 2013 State Bar Annual Meeting (i.e., October 13, 2013), or until further order of the Board, whichever occurs earlier.

All members listed on the roll call slip voted yes, except Loren Kieve who had left the room.

6012 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Christopher Dybwad, Los Angeles, Member, Criminal Law Section Executive Committee, effective immediately, for the remaining portion of Mr. Meister's term, expiring at the close of the 2015 State Bar Annual Meeting (October 11, 2015), or until further order of the Board, whichever occurs earlier.

All members listed on the roll call slip voted yes, except Loren Kieve who had left the room.

6021 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, 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 2013 ABA Annual Meeting (August 13, 2013) and expiring at the conclusion of the 2015 ABA Annual Meeting (August 4, 2015), or until further order of the Board, whichever occurs earlier:

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| 1. | Qiang Bjornbak | Los Angeles |
| 2. | Loren Kieve | San Francisco |
| 3. | Richard M. Macias | Los Angeles |
| 4. | Michelle Philo | Riverside |
| 5. | Edward Raskin (Young Lawyer) | Irvine |

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 2013 ABA Annual Meeting (August 13, 2013) and expiring at the conclusion of the 2014 ABA Annual Meeting (August 12, 2014), or until further order of the Board, whichever occurs earlier:

First Alternate: Anthony Barash, Chicago, IL

Second Alternate: Alexander S. Polsky, Huntington Beach

All members listed on the roll call slip voted yes.

6022 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Mark G. Bonino, Redwood City, State Bar member, Judicial Council, for a three-year term commencing September 15, 2013, and expiring September 14, 2016, or until further order of the Board, whichever occurs earlier.

All members listed on the roll call slip voted yes.

6023 Upon motion made, seconded and unanimously adopted, it was

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 8, 2013, and expiring December 31, 2013:

Name	County	Bar Number or Layperson
Alis, Enrico M.	San Francisco	217509
Bruno, Patricia C.	San Mateo	183533
Chandler, James M.	Nevada	47567
Curl, Cathleen	San Mateo	85490
Healy, Thomas R.	Solano	164815
Sagatelyan, Levon	San Mateo	87677
Seidenfeld, Marc R.	San Mateo	98245
Silberman, David A.	San Mateo	211708
Windsor, Jeffrey R.	San Mateo	213484
Wunderli, Russ J.	Placer	95654
Young, Jeffrey	Santa Barbara	172016
Dorsett, Daniel	Contra Costa	Lay Arbitrator

All members listed on the roll call slip voted yes.

The Board resumed open session at 10:50 a.m.

The meeting of the Board of Trustees was adjourned at 11:40 a.m.

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 10, 2013 at a time to be determined.