

AGENDA ITEM

March 10 - Board of Trustees – November 15, 2013 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF TRUSTEES MEETING

SAN FRANCISCO, CALIFORNIA

FRIDAY, NOVEMBER 15, 2013

The Board of Trustees of The State Bar of California convened in open session at 8:05 am at the State Bar of California, Board Room, 180 Howard Street, San Francisco, CA, on Friday, November 15, 2013, Luis J. Rodriguez presiding.

The following members of the Board of Trustees were present: Michael Colantuono, Glenda Corcoran, Dan Dean, Nancy Fineman, Craig Holden, Miriam A. Krinsky, Dennis Mangers, Pearl Mann, Joanna Mendoza, Gwen Moore, David Pasternak, Heather Rosing, Mark Shem, David Torres and Hernán Vera.

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

Also present: Jennifer Wada, the State Bar's legislative advocate.

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, July 19, 2013, 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 Trustees held on Friday, July 19, 2013, 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 Trustees held on Saturday, October 12, 2013, in San Jose, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Sunday, October 13, 2013, in San Jose, California, hereby are approved as written.

All members listed on the slip voted yes.

- 30 Mr. Rodriguez informed the Board that the Mongolian Consul General would not attend the Board meeting as planned because of an unforeseen conflict. Executive Director Dunn explained that the Mongolian officials were working to reform Mongolia's judicial system and as a result had established close cooperation with the Supreme Courts of the United States and were seeking technical assistance to develop their regulatory system from the State Bar of California.

Mr. Rodriguez reported that he was still considering the composition of the special committee to study the State Bar Discipline Standards, but that former Trustee Karen Goodman had agreed to chair the effort.

Mr. Rodriguez explained that the State Bar was continuing to explore ways to expand its ability to enforce the provisions of the Business and Professions Code prohibiting the unauthorized practice of law (UPL) and that the State Bar would utilize a small stand-alone UPL enforcement unit to investigate and work up cases for filing.

Mr. Rodriguez explained that the permanent Board Standing UPL Oversight Committee established by the Board in October 2013 would oversee the Bar's UPL enforcement. Mr. Rodriguez advised that the oversight committee would be chaired by Trustee Dennis Mangers and would be comprised of Trustees Daniel Dean, Craig Holden, Gwen Moore, and David Torres.

- 41/42 Mr. Dunn introduced Mr. Doug Youmans, Co-Chair of the Council of State Bar Sections, who going forward would report to the Board on behalf of the Council.

Mr. Youmans summarized the work of the following sections: Antitrust & Unfair Competition; Business Law; Environmental Law; Family Law; Intellectual Property Law; Labor & Employment Law; Litigation; Public Law; Taxation; and Trusts & Estates.

Mr. Dunn introduced Alexander Calero, Chair of the California Young Lawyers Association (CYLA). Mr. Calero thanked Mr. Rodriguez and Mr. Dunn for their work with CYLA.

Mr. Calero reported that CYLA had identified auditing Mandatory Continuing Legal Education as a potential CYLA regulatory purpose. Mr. Calero advised that CYLA was ready and willing to carry out that function.

Mr. Calero noted that CYLA had submitted comments to the State Bar's Task Force on Admissions Regulation Reform regarding its recommendations for regulatory requirements for pre-admission competency training.

Mr. Calero reminded the Board that CYLA continues to partner with the State Bar Sections to provide its members with educational and practice resources, including practical skills and continuing legal education. Mr. Calero stated that CYLA would also continue to partner with the Business, International and Public Law sections to develop mentoring programs.

Mr. Calero thanked the Board CYLA liaisons (Ms. Rosing, Mr. Shem and Mr. Vera) and invited the Trustees to CYLA's November 16 meeting.

Mr. Dunn introduced Jennifer Wada, the State Bar' legislative advocate, who reported on legislation of interest to the State Bar.

Ms. Wada advised that the State Bar would pursue legislation similar to AB 888 which sought to provide the State Bar of California with stronger enforcement tools to battle the unauthorized practice of law.

Ms. Wada noted that 2014 was an election year and that all eight state executive offices were up for election, as well as twenty even-numbered state senate seats, all eighty state assembly seats, and all four Board of Equalization seats.

Ms. Wada advised that there were currently four initiative and referendum proposals that had qualified for the ballot in 2014 and that there were twenty-two pending review by the Attorney General.

Ms. Wada and Mr. Dunn noted the resignation of State Senator Bill Emmerson, Twenty-Third District.

Ms. Wada observed that it appeared that the Democrats would retain their majority control in the legislature, but that the question was whether they could maintain a supermajority.

Mr. Dunn introduce Esperanza Ross who described several legislative initiatives related to civic education: AB 137 (Buchanan) - Instructional Quality Commission required to receive input from civics learning experts when history-social science frameworks are revised (signed by the governor on September 6, 2013); SB 696 (Block) - Project-based assessment to measure civics learning objectives for grades 1-12 (2-Year Bill); and SB 619 (Yee) - Civil Service Employees Civics Orientation (2-Year Bill).

Ms. Ross also spoke about "Civitas" a legislative proposal to improve civics learning and engagement in Grades 9-12; preparing students to become more responsible Californians; piloting new college, career, and civic life (C3) frameworks in the history-social science standards. The project would be piloted in 10 school districts, including charter schools. It would be an opt-in, non-mandatory for a period of three years; and as a condition of receiving funding, participants would be required to integrate C3 framework and assessment.

Ms. Ross described an Adult Civic Education budget initiative that would be funded pursuant to Education Code section 84830, that provides for two-year planning and implementation grants to regional consortia of community college districts and school districts for the purpose of developing regional plans to better serve the educational needs of adults; basic understanding of the federal, state and local government and civic learning and engagement. Ms. Ross stated that this initiative would be rolled out in partnership with the Secretary of the California State Transportation Agency, Brian Kelly.

Mr. Dunn explained that the legislation that Ms. Ross had described was part of a statewide civics initiative by a broad coalition that included the judicial branch, three levels of the California courts, the State Bar and local bar associations, as well as local and state education organizations that actively support the effort to promote civics literacy in California's schools.

Mr. Dunn introduced Rigoberto Romero who spoke about current State Bar external relations & public outreach efforts that are focused on building relationships that support and promote the State Bar's mission; creating deeper community engagement; and magnifying the State Bar's reach through collaborative relationships.

Mr. Rodriguez 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.

The following items on the consent agenda were deemed unanimously adopted.

54-111 This is a report of action taken on August 30, 2013, by the Board Committee on Operations on behalf of the Board of Trustees between regular meetings of the board. The Committee directed staff to release for a 30-day public comment period, a proposed new Rule of Court (rule 9.4) which would append a courtesy and professionalism statement to the oath required to be taken by persons who are certified by the Supreme Court for admission to practice law. The following resolution was adopted.

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board Committee on Operations authorizes staff to make available for public comment for a period concluding on October 4, 2013, the proposed new Rule of Court, rule 9.4, Oath Required when Admitted to Practice Law in the form attached; and it is

FURTHER RESOLVED that good cause exists to reduce the comment period to thirty (30) days; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.

All members except Gwen Moore were present and all members present voted yes.

- 54-112 RESOLVED, that no period of public comment being required and upon the recommendation of the Board Committee on Operations, the Board hereby directs staff to remove State Bar Rules Appendix C, New to Old Rules by Number and to re-designate Appendix D, Challenge to Mandatory Membership Fees, as Appendix C.
- 54-132 RESOLVED, that upon recommendation of the Member Oversight Committee, the Board of Trustees hereby delegates to staff the function of making the annual recommendation to the California Supreme Court that eligible suspensions that meet the criteria for expungement set forth in California Rule of Court 9.6 be expunged; and it is
- 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.
- 54-133 RESOLVED, pursuant to California Rule of Court 9.31 and the Rules of the State Bar, and upon recommendation of the Member Oversight Committee, that the Board of Trustees hereby authorizes that those members of MCLE Compliance Group 1 who were audited and who do not bring themselves into compliance with their MCLE Audit requirement by November 21, 2013, be enrolled as inactive members of the State Bar of California and placed on "Not Eligible to Practice" status, effective November 22, 2013; and it is,
- FURTHER RESOLVED, that the Board of Trustees hereby authorizes staff to remove a member from administrative inactive status once the member has provided proof of compliance and paid all noncompliance fees.
- 54-141 Financial Statement for the Quarter Ended September 30, 2013
- RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the financial statement in the form this day before the Board, for the quarter ended September 30, 2013, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.
- Investment Report for the Quarter Ended September 30, 2013
- RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the investment report in the form this day before the Board, for the quarter ended September 30, 2013, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.
- Client Security Fund Report for the Quarter Ended September 30, 2013
- RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the Client Security Fund report in the form this day before the Board, for the quarter ended September 30, 2013, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar

54 -142 RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby adopts the Proposed Amendment to State Bar Rule 2.15 in the form this day before the board.

115 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 creation of a "Task Force on Civil Justice Strategies;" and it is

FURTHER RESOLVED, that the Task Force on Civil Justice Strategies shall be chaired by Luis Rodriguez, President, State Bar of California; and it is

FURTHER RESOLVED, that President Rodriguez may appoint the members of the Task Force on Civil Justice Strategies, composed of no more than 20 members.

All members present and recorded on the roll-call slip voted yes.

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

RESOLVED, that following a period of public comment and no comments being received, and upon the recommendation of the Member Oversight Committee, the Board hereby adopts the revised State Bar rules 3.90-3.126 for the program for Legal Specialization for certification of members and rules 3.900-3.906 for the program for Approval To Certify Legal Specialists, in the form attached hereto effective January 1, 2014. The change in composition of the California Board of Legal Specialization will become effective with the 2014-2015 appointments.

All members present and recorded on the roll-call slip voted yes, except for Mr. Mangers who had left the meeting.

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

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the revisions made to the bylaws of the Public Law Section and restatement of the full text following approval of such amendments, in the form attached.

All members present and recorded on the roll-call slip voted yes, including Mr. Mangers who had returned to the meeting.

143 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 amends the 2013 budget to increase the budget in the Sections Fund by a total of \$715,000 and in the Legal Specializations Fund by \$160,000.

All members present and recorded 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 approves the amendments to the Admissions Administrative Fee Schedule in the form attached hereto.

All members present and recorded on the roll-call slip voted yes.

145 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 adopts the policy regarding unanticipated General Fund savings and revenues as defined in Attachment "A."

All members present and recorded on the roll-call slip voted yes.

161 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: BLS-2014-01, BLS-2014-02, FL-2014-03, and T&E-2014-04.

All members present and recorded on the roll-call slip voted yes.

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

RESOLVED, that upon the recommendation of the Audit Committee, the Board hereby approves the selection of Moss Adams LLP to serve as the State Bar's independent auditor for the 2013 – 2015 audits.

All members present and recorded on the roll-call slip voted yes.

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

RESOLVED, that upon the recommendation of the Audit Committee, that the Audit Committee is authorized to review the draft financial statements and direct staff to submit them to the Legislature and Supreme Court. The auditors will meet with the Audit Committee during its May meeting to provide detail information and answer questions. These actions will be reported to the Board on its consent agenda at its regularly scheduled May meeting.

All members present and recorded on the roll-call slip voted yes.

The Board went into closed session at 10:30 am 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. Mr. Torres had left the meeting.

- 6011 RESOLVED, upon recommendation of the Nominations and Appointments Committee, that the Board appoints Daniel Benjamin Borson, Lafayette, member, Committee on Professional Responsibility and Conduct, effective immediately, replacing Andrew Shen, San Francisco, resigned, for the remaining portion of Mr. Shen's term, i.e., September 14, 2014, or until further order of the Board, whichever occurs earlier.
- 6012 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Brian Cole, Manhattan Beach, and Bruce Napell, San Rafael, members, Franchise and Distribution Law Advisory Commission, effective immediately, each for a term expiring at the close of the 2016 State Bar Annual Meeting (i.e., October 2, 2016), or until further order of the Board, whichever occurs earlier.
- 6013 RESOLVED, that the Nominations and Appointments Committee recommends that the Board, pursuant to the elections held by the ABA-approved private law schools, appoint the following members to the Law School Council: Stephen Ferruolo, Dean, University of San Diego School of Law, and Robert K. Rasmussen, Dean, University of Southern California School of Law, each for a term commencing immediately, and expiring upon the final day of the 2016 State Bar Annual Meeting, October 2, 2016, or until further order of the Board, whichever occurs earlier.
- 6014 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby reappoints Hon. Ronald B. Robie, Sacramento, Chair, and Joanne Caruso, Los Angeles, Vice Chair, to the California Commission on Access to Justice, each for a term commencing January 1, 2014, and expiring December 31, 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 Stephen Otto, Newport Beach, and Sheila Quinlan, San Diego, members, Board of the Directors of California Indian Legal Services, each for a three-year term, commencing December 1, 2013, and expiring November 30, 2016, 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 reappoints Charles Murray, Villa Park, member, Board of the Directors of Legal Aid Society of Orange County, for a three-year term, commencing December 1, 2013, and expiring November 30, 2016, 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 Martin F. Triano, San Francisco, member, Real Property Section Executive Committee, replacing Ruth Sybil Villanueva, Elk Grove, resigned, effective immediately, for the remaining portion of Ms. Villanueva's term, expiring at the close of the 2016 State Bar Annual Meeting (i.e., October 2, 2016), or until further order of the Board, whichever occurs earlier.

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 members to the Board of Directors of the California Bar Foundation, each for a two-year term commencing January 1, 2014, and expiring December 31, 2015, or until further order of the Board, whichever occurs earlier:

Reappointment

Alec Chang, Palo Alto
Julia De Beers, Los Angeles
Sandra Fujiyama, Los Angeles
Steven Goldberg, Sacramento
Geoffrey Holtz, San Francisco
Justin Miller, San Francisco
Amy Ross, San Francisco
Christie Susman, San Francisco
Julie Taylor, San Francisco
Richard Tom, Los Angeles
Shawn Williams, San Francisco

New Appointment

Aimee Contreras-Camua, Los Angeles
Hon. Elena Duarte, Sacramento
Alilda Ferraro, San Francisco
John Lim, Los Angeles
Paven Malhotra, San Francisco
Chris Schneider, Fresno

All members present and recorded on the roll-call slip voted yes, including Mr. Torres who had returned to the meeting.

6022 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 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, 2014, and expiring December 31, 2014; and it is

FURTHER RESOLVED that Board of Trustees hereby appoints the following applicants to the State Bar Fee Arbitration Department, each for a term commencing November 15, 2013, and expiring December 31, 2014:

Name	County	Bar Number
Berger, Harvey C.	San Diego	102973
Best, Mary M.	San Diego	110220
Cochran, Keith M.	San Diego	254346
Goldstein, Jonathan	Los Angeles	225293
Gonsalves, Matthew J.	Alameda	95147
Kempen, Bernie J.	Alameda	164166
Logan, Richard G.	Alameda	88773
Lunsford, Lisa R.	Alameda	206044
Reese, Thomas D.	Santa Clara	31540
Sack, Dana	Alameda	92425
Slater, Doris H.	Alameda	87746
Thorman, Michael P.	Alameda	63008
Friedman, Marilyn	Alameda	Lay
Orgel, Norman	San Diego	Lay
Patterson, Ron C.	Alameda	Lay

and it is

FURTHER RESOLVED that the Board of Trustees hereby reappoints Kenneth E. Bacon of Sacramento (Bar No. 104194) as the State Bar's Presiding Arbitrator for a term effective January 1, 2014, and expiring December 31, 2014.

All members present and recorded on the roll-call slip voted yes, including Mr. Torres who had returned to the meeting.

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

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, that the Board appoints Michelle Domingo, Sacramento, member, Committee of Bar Examiners, effective immediately, replacing Cometría C. Cooper, Oakland, resigned, for the remaining portion of Ms. Cooper's term, i.e., October 11, 2015, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes, except Ms. Fineman who abstained.

The Board adjourned its meeting at 11:00 am.

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, at the State Bar offices, 845 S. Figueroa Street, Board Room, 2nd Floor, Los Angeles, CA, 90017, on Friday, March 7, 2014, at a time to be determined.