

AGENDA ITEM

JULY 10 - Board of Trustees – May 9, 2014 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF TRUSTEES MEETING

**The State Bar of California
180 Howard Street
Board Room, 4th Floor
San Francisco, CA 94105-1639**

FRIDAY, MAY 9, 2014

The Board of Trustees of The State Bar of California convened in open session at 8:40 am at the State Bar of California, 180 Howard Street, Board Room, 4th Floor, San Francisco, California on Friday, May 9, 2014, 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 Krinsky, Dennis Mangers, Pearl Mann, Joanna Mendoza, Gwen Moore, Heather Rosing, Mark Shem, David Torres and Hernán Vera.

The following members of staff were present: John Chiappetta, Joseph Dunn, Carina Franck, Dina Goldman, Teri Greenman, Thomas Miller, Peggy Van Horn, Ginnie Yee and Larry Yee.

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.

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

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

RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Friday, February 28, 2014, in San Francisco and Los Angeles, California and by conference call, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the regular meeting of the Board of Trustees held on Friday, March 7, 2014, in Los Angeles, California, hereby are approved as written.

All members listed on the slip voted yes.

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.

Mr. Scott Sugarman, President, California Attorneys for Criminal Justice (CACJ) requested comment and spoke against item 54-113, Sponsorship of Assembly Bill 1515 (Gonzalez) - Attorneys: Duties & Advance Fees.

Following public comment, former State Bar President Patrick Kelly reported that on May 1, 2014, the California Supreme Court adopted rule 9.4 of the California Rules of Court to supplement the attorney oath for new lawyers. He explained that the oath would now include a statement that the attorney would strive to conduct himself or herself with dignity, courtesy, and integrity.

Mr. Kelly said that the State Bar had been pleased to work with Doug DeGrave, immediate past president of the California Chapters of the American Board of Trial Advocates, in urging the court to adopt this additional measure, and that it was his belief that it would create an added reinforcement for attorneys entering the bar in California to remember the principles of professionalism that brought them to the practice in the first place and in particular in their dealings with clients, other attorneys, and judges.

30 Mr. Rodriguez reported on the efforts made by the Asian Pacific American Law Students Association at the University of California Davis School of Law in seeking a posthumous admission for Mr. Hong Yen Chang. Mr. Rodriguez explained that Mr. Chang was reportedly the first Chinese immigrant to earn a law degree in the United States and the first to be licensed to practice law in any state.

Mr. Rodriguez noted that after Mr. Chang's admittance to the New York state bar, he applied to the California bar. The California Supreme Court denied admission in the unanimous published decision *In re Hong Yen Chang*, 84 Cal. 163 (1890). The Court held that Mr. Chang's naturalization certificate was void and that as a non-citizen; he was ineligible for bar membership. The Court acknowledged that Mr. Chang had otherwise satisfied the requirements for bar admission, but because federal law barred Chinese immigrants from naturalizing, Mr. Chang could not become a citizen and consequently, ineligible to practice law in California.

Mr. Rodriguez advised that he would like the Trustees to adopt a resolution at the July board meeting granting Hong Yen Chang honorary admission to the California Bar.

41/42 Mr. Dunn introduced Jason Lee, Chair of the Commission on Judicial Nominees Evaluation ("JNE"), who reported that JNE had just completed its 2014 Strategic Plan. Mr. Lee explained that JNE's strategic plan described, identified and developed goals and objectives, in the short and long term, for JNE to fulfill its statutory mission of investigating, assessing, and rating judicial candidates for potential appointment by the Governor.

Mr. Lee explained that the plan was divided into three categories: Logistics, Outreach and Education, and Policy: (1) Logistics are operation-oriented objectives and include the development, deployment, and use of technology to facilitate JNE's statutory mission; (2) Outreach and Education are efforts to contact, engage, and educate potential judicial candidates on JNE processes; and (3) Policy refers to the refinement of JNE's internal processes, including discussion of legal issues pertaining to JNE's work.

Mr. Dunn introduced Mike Maffei, the California Young Lawyer Association ("CYLA") District 1 representative. Mr. Maffei thanked Mr. Rodriguez, Mr. Dunn, and the Trustee CYLA Liaisons, Mr. Shem, Ms. Rosing and Mr. Vera, for their support. Mr. Maffei advised that CYLA was ready and willing to assume its regulatory role as statewide MCLE auditors. Mr. Maffei reported on CYLA's mentoring program and practical skills training videos, which he said align with the Task Force on Admissions Regulation Reform's recommendations. He also reported that CYLA had undertaken outreach efforts designed for attorneys residing in underserved areas of California to inform them about the benefits of engaging with the State Bar early in their careers.

Mr. Dunn introduced Trustee Glenda Corcoran and Carina Franck who reported on the State Bar's external relations activities. They explained that there are three elements to the external relationships: (1) public protection regulatory round tables; (2) consumer town hall meetings in Northern and Southern California for immigrant communities, seniors and veterans; and (3) trusted community partners relations coordinated by Rigoberto Romero.

Mr. Dunn reported briefly on the Washington State Bar Association's Governance Task Force Second Interim Report and Recommendations that were issued on April 3, 2014. Mr. Dunn explained that in 2012, the Washington State Bar Board of Governors assigned the task force with undertaking an in-depth review of the governance of the Washington State Bar Association.

Mr. Dunn announced the candidates for the 2014 - 2015 State Bar Board of Trustees officer election: President - Craig Holden; Vice President - Michael Colantuono, David Pasternak and Heather Rosing; and Treasurer - Michael Colantuono, Miriam Krinsky and Hernán Vera.

- 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, except item 54-113, which was tabled.

Ms. Moore had left the meeting.

- 54-111 RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves sponsorship of AB 2746 (Committee on Judiciary).
- 54-112 RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby agrees to be the sponsor of Assembly Bill 852.
- 54-114 RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves support the proposed legislation to promote civics learning and engagement among the state's K-12 students.

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:

Veronica B. Aragon (#282668) State Bar allows member to pay the scaled license fee for 2014 and waives the late payment penalty for a total waiver of \$195

Linda Candler (#181805) State Bar waives member's late payment penalties in the amount of \$100

Andrew Cross (#267844) State Bar waives member's 2014 licensing fees and late payment penalties in the amount of \$520

Danyel Driscoll (#220344) State Bar waives member's late payment penalty in the amount of \$100

Daniel Goodstein (#97579) State Bar waives member's 2014 licensing fees and late payment penalty in the amount of \$520

Benjamin Eisenberg (#281013) State Bar waives member's late payment penalty in the amount of \$100

Ruth Holloway-Garcia (#148526) State Bar waives member's late payment penalty in the amount of \$100

Melissa Harnett (#164309) State Bar waives member's 2014 license fees and late payment penalty in the amount of \$175

Jill Henderson (#166400) State Bar waives member's late payment penalty in the amount of \$100

Matthew Hocker (#188546) State Bar waives member's late payment penalty in the amount of \$100

Louis Jack (#141387) State Bar waives member's late payment penalty in the amount of \$100

Judith Jecmen (#141387) State Bar allows member to pay the Inactive rate for 2014 for a waiver in the amount of \$375

Deirdre Kraft (#179539) State Bar waives member's 2014 license fees and late payment penalty in the amount of \$175

Scott Linden (#190920) State Bar waives member's 2014 license fees and late payment penalty in the amount of \$520

Matthew Maniscalco (#180094) State Bar waives member's 2014 license fees and late payment penalty in the amount of \$375

Eric O'Connor (#223244) State Bar waives 50% of member's 2014 license fees and late payment penalty in the amount of \$260

Glen Patterson (#87562) State Bar waives member's 2014 license fees and late payment penalty in the amount of \$175

Patrick Pearce (#135618) State Bar waives member's outstanding late fees and reinstatement penalty in the amount of \$600

Kristina Pravica (#231932) State Bar waives member's 2014 license fees and late payment penalty in the amount of \$520

Oscar Rosenbloom (#69334) State Bar allows member to pay the scaled license fee for 2014 and waives the late payment penalty for a total waiver of \$195

Vince Winters (#136944) State Bar waives member's late payment penalty in the amount of \$100

Debra Benci-Woodward (#192607) State Bar allows member to pay the scaled license fee for 2014 and waives the late payment penalty for a total waiver of \$195

54-132

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby ascertains and determines:

- (a) that the Secretary or his designee has performed the ministerial function of determining that each person who is to be recommended to the Supreme Court of California for suspension for nonpayment of dues is a member of The State Bar of California;
- (b) that the Secretary or his designee has determined that each such person has failed to fully pay fees, penalties or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.03, 6140.5(c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;
- (c) that the Secretary or his designee has sent to each such person at his or her address of record with the State Bar of California two months' written notice of his or her delinquency which included notice of section 6143 of the Business and Professions Code;
- (d) and hereby recommends to the Supreme Court of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, effective July 1, 2014, until such time as he or she may be reinstated, upon the payment of the delinquent fees, penalties or costs and of such additional fees, penalties or costs as may have accrued at the time of such payment; and it is

FURTHER RESOLVED, that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary or his designee is authorized and directed to notify the Clerk of the Supreme Court of California of the name of any member of the State Bar who by proper remittance (e.g., credit card accepted by the State Bar, cash, cashier's check, money order, bank certified check, or wire transfer) and prior to the effective date of the Supreme Court of California order of suspension based hereon, pays to the State Bar fees, penalties or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of California of the consequent withdrawal of the Board of Trustees' recommendation for suspension; and it is

FURTHER RESOLVED, that for the purpose of modifying the recommendation to the Supreme Court of California for suspension for nonpayment of fees, penalties or costs, the Secretary or his designee is authorized and directed to change the data as to status or the amounts of delinquency of any member and to notify the Clerk of the Supreme Court of California accordingly of the consequent modification of the Board of Trustees' recommendation for suspension.

- 54-133 RESOLVED, pursuant to California Rule of Court 9.31 and the Rules of the State Bar, that upon the recommendation of the Member Oversight Committee, the Board hereby authorizes that those attorneys in MCLE Compliance Groups 1, 2 and 3 who do not bring themselves into compliance with their MCLE requirements by June 30, 2014, be enrolled as inactive members of the State Bar of California and placed on "Not Eligible to Practice" status, effective July 1, 2014; and it is

FURTHER RESOLVED, that the Board hereby authorizes staff to remove individual attorneys from inactive status once they have provided proof of compliance and paid all noncompliance fees.

- 54-134 RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the 27th Annual Report of the California Board of Legal Specialization for the period January 1, 2013 through December 31, 2013, and directs that the report be transmitted to the California Supreme Court as required by section 21.0 of the *Rules Governing the State Bar of California Program for Certifying Legal Specialists*.

- 54-141 A. Financial Statement for the Quarter Ended March 31, 2014

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 March 31, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

- B. Investment Report for the Quarter Ended March 31, 2014

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 March 31, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

C. Client Security Fund Report for the Quarter Ended March 31, 2014

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 March 31, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

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

RESOLVED, that upon the recommendation of the Regulation, Admissions and Discipline Oversight Committee, the Board of Trustees hereby approves the proposed amendments to the Rules of Procedure of the State Bar of California, as set forth in Attachment A to be effective July 1, 2014.

All members present and recorded on the roll-call slip voted yes, except Ms. Moore 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 adopts a policy that would permit MCLE auditors to receive MCLE credit for programs they audit on behalf of the State Bar of California; and it is

FURTHER RESOLVED, that upon recommendation of the Member Oversight Committee, that as a general Board policy, Board of Trustees members not participate as auditors.

All members present and recorded on the roll-call slip voted yes, except Mr. Dean who had left the room and Ms. Moore who had left the meeting.

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

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby accepts and approves the Council on Access & Fairness 2014-2016 Long Range Strategic Plan.

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

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

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby authorizes the Council on Access & Fairness to send the attached letter to U.S. News and World Report.

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

The Board went into closed session at 11:48 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, except item 6013 which was removed from the consent agenda. Ms. Moore had left the meeting.

- 6011 RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints the following fee arbitrators to the State Bar Mandatory Fee Arbitration Department, each for a term effective immediately and expiring December 31, 2014.

| Name | County | Bar Number |
|-----------------------|---------------|-------------------|
| Diamond, Jacqueline | Los Angeles | 128089 |
| Gershman, Stephen A. | Los Angeles | 70941 |
| Hoefflin, Richard M. | Ventura | 61519 |
| Jacobson, Lawrence H. | Los Angeles | 41408 |
| Lapidus, Ryan D. | Los Angeles | 196838 |
| Lenske, Stephen A. | Los Angeles | 43504 |
| Monitz, Ronald | Los Angeles | 94175 |
| Nastich, Summer | Alameda | 229985 |
| Rover, Michael B. | Riverside | 180198 |
| Shelton, Peter A. | Alameda | 187533 |
| Stewart, Julias | Los Angeles | 237239 |
| Unsworth, Douglas A. | Alameda | 104988 |
| Williams, Garry W. | Los Angeles | 63200 |
| Selditz, William | Los Angeles | Lay |
| Torsney, Brian | Los Angeles | Lay |

- 6012 RESOLVED, that upon recommendation of the Nominations and Appointments Committee, the Board hereby approves the selection of AARON FISCHER as the 2014 recipient of the Jack Berman Award.

Ms. Fineman requested that item 6013 be removed from the consent agenda.

- 6013 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, officers and members of the Section Executive Committees as set forth on the forms attached to the minutes and made a part hereof; effective at the close of the 2014 State Bar Annual Meeting (September 14, 2014), or as indicated; each officer and member to serve a term expiring as indicated; 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 and Ms. Moore who had left the meeting.

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, officers and members of the standing and special committees as set forth on the forms attached to the minutes and made a part hereof; effective at the close of the 2014 State Bar Annual Meeting (September 14, 2014), or as indicated; each officer and member to serve a term expiring as indicated; or until further order of the Board, whichever occurs earlier.

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

The Board adjourned its meeting at 11:53 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, California, July 18, 2014, at a time to be determined.