

## **AGENDA ITEM**

**November 10 - Board of Trustees – September 13, 2014 Minutes**

### **THE STATE BAR OF CALIFORNIA**

#### **MINUTES**

#### **BOARD OF TRUSTEES MEETING**

#### **SAN DIEGO, CALIFORNIA**

**SATURDAY, SEPTEMBER 13, 2014**

The Board of Trustees of The State Bar of California convened in open session at 8:48 am at the Manchester Grand Hyatt San Diego, Gaslamp A-D, 1 Market Pl., San Diego, California, on Saturday, September 13, 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, David Pasternak, Heather Rosing, Mark Shem, David Torres and Hérnan Vera.

The following members of staff were present: Joseph Dunn, Dina Goldman, Teri Greenman, Thomas Miller, Pam Wilson and Ginnie Yee.

Also present: Fredericka McGee, Deputy Chief of Staff and General Counsel to the California State Assembly Speaker (Toni Atkins); Patrick M. Kelly, former State Bar President; Karen Goodman, former State Bar Trustee; and 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.

- 30 Mr. Luis Rodriguez advised the Board that the work of the Civil Justice Strategies Task Force was close to completion and that it would meet on October 20 and November 13 for the last time.

Mr. Rodriguez advised that there would be three guest speakers; Fredericka McGee, General Counsel and Deputy Chief of Staff, California State Assembly Speaker Toni G. Atkins; former State Bar President Pat Kelly; and Karen Goodman, former Trustee and current Chair of the Discipline Standards Task Force.

Mr. Rodriguez introduced Fredericka McGee. Ms. McGee complemented the Board on its proposal that would provide for two Trustees from the Board's executive committee to serve as liaisons with the Chief Executive Officer, the State Bar's legislative advocate, and Governmental Affairs staff during the course of any legislative session regarding development of legislative proposals that could lead to requests for an affirmative vote by the Board of Trustees to sponsor specific legislation.

Ms. McGee noted that that sort of legislative liaison would allow for nimbleness when quick decision making is required.

Ms. McGee spoke about the proposal that Governor Jerry Brown and other California lawmakers developed to provide \$3 million in legal aid to address the swell of unaccompanied children from Central America who have immigrated to the U.S. illegally in recent months.

She explained that the proposal clarifies state court jurisdiction in special immigrant juvenile status cases and that it would steer taxpayer money to nonprofit organizations that provide legal help to unaccompanied minors facing deportation.

Ms. McGee thanked the State Bar for its willingness to assist the Governor's office with identifying and directing the aid to the pertinent legal service organizations.

Ms. McGee discussed the bar's possible plan to sell its San Francisco building and move its Northern California headquarters to the East Bay or Sacramento. She reminded the Board that the Legislature was deeply concerned about labor issues and that the State Bar should bear that fact in mind when making decisions about moving.

Mr. Rodriguez introduced former State Bar President Pat Kelly who reported on the recommendations of the Task Force on K-12 Civic Learning. Mr. Kelly explained that the goal was for all students in California to have access to a continuum of civic learning experiences starting in kindergarten. He continued, saying that the task force believed that they must embed robust civic learning throughout the K-12 experience, both within and beyond school walls. And that to this end, the task force had made system-wide recommendations to improve civic learning in every district, in every school, for every child.

He noted that the report was available online and encouraged the Trustees to review the task force's recommendations.

Mr. Rodriguez introduced Karen Goodman, a former Trustee and current Chair of the Discipline Standards Task Force. Ms. Goodman reported that the 15 member Discipline Standards Task Force had researched and examined the existing Standards for Attorney Sanctions for Professional Misconduct, initially drafted in 1986 and revised in 2013. And that after considerable discussion, the Task Force recommended a substantial revision of the Discipline Standards, focusing on the following substantive areas: (a) the level of discipline; (b) factors considered for aggravation and mitigation; and (c) the adequacy of existing standards for Rules of Professional Conduct that relate to public protection.

Ms. Goodman continued, stating that with considerable input from the Office of General Counsel, the Office of Trial Counsel and the State Bar staff, the Task Force was in the process of drafting revisions to the Standards. She anticipated that the Task Force would have recommended revised standards ready for the Board of Trustees to review and consider before the end of 2014.

41/42 Mr. Dunn introduced Pam Wilson, Senior Director, Education, and asked her to provide information about the Annual Meeting in progress.

Mr. Dunn provided a status report on the State Bar's membership fee bill. Mr. Dunn advised that the bill, which did not contain a fee increase, was in the Governor's office for signature.

Mr. Dunn circulated a letter of thanks from Consulate Generals thanking State Bar, President Rodriguez and the Board of Trustees for their consumer protection efforts.

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.

54-111 A. Financial Statement for the Quarter Ended June 30, 2014

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board hereby receives the financial statement in the form this day before the Board, for the quarter ended June 30, 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 June 30, 2014

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board hereby receives the investment report in the form this day before the Board, for the quarter ended June 30, 2014, 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 June 30, 2014

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board hereby receives the Client Security Fund report in the form this day before the Board, for the quarter ended June 30, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-112 RESOLVED, that upon the recommendation of the Board Committee on Operations, and subject to AB 2746 becoming law and effective January 1, 2015, the Board hereby sets the annual membership fee for active members in 2015 at \$430 and the annual membership fee for inactive members at \$155; and it is

FURTHER RESOLVED, that the total Keller deduction for the 2015 annual membership fee be set at \$10, which includes \$5 for legislative activities under Business and Professions Code section 6140.05 and \$5 for activities in the Bar Relations and Elimination of Bias programs; and it is

FURTHER RESOLVED, that for the Legal Services Assistance Fee under Business and Professions Code section 6140.03, a \$40 deduction from the annual membership fee be provided to each member who elects not to have this amount allocated to support nonprofit organizations that provide free legal services to persons of limited means; and it is

FURTHER RESOLVED, that the penalties imposed on delinquent 2015 annual membership fees be set at \$100 for active members and \$30 for inactive members; and it is

FURTHER RESOLVED that the penalties on delinquent 2014 annual membership fees for all members, other than new admittees, billed on or after December 21, 2013 be set at \$100 for active members and \$30 for inactive members; and it is

FURTHER RESOLVED, that said penalties in the preceding paragraphs be assessed on February 3, 2015; and it is

FURTHER RESOLVED, that the reinstatement penalties for members to terminate suspension for nonpayment of accrued fees, penalties, and/or costs be set at \$100; and it is

FURTHER RESOLVED, that the membership fees for new members admitted in 2015 be set as follows: fees of \$430 for those admitted between January 1 and May 31, 2015 and \$215 for those admitted between June 1 and November 30, 2015; and it is

FURTHER RESOLVED, that late payment penalties for new members admitted in 2015 be assessed and set on the 46th day from the invoice date as follows: \$100 for those admitted between January 1 and May 31, 2015, and \$50 for those admitted between June 1 and November 30, 2015; and it is

FURTHER RESOLVED, that the MCLE noncompliance fee be set at \$75 and the reinstatement fee to terminate MCLE inactive enrollment be set at \$200 for 2015; and it is

FURTHER RESOLVED, that the interest on assessed costs for reimbursement to the Client Security Fund be set at 10% annually calculated from the date of disbursement as set forth by the Board, pursuant to Business and Professions Code §6140.5(c); and it is

FURTHER RESOLVED, that the administrative penalty on failure to comply with binding arbitration is charged at a fee not to exceed 20% of the amount ordered refunded to the client or \$1,000 whichever is greater.

54-113           RESOLVED, pursuant to California Rule of Court 9.31 and the Rules of the State Bar, and upon recommendation of the Board Committee on Operations, that the Board of Trustees hereby authorizes that those members of MCLE Compliance Group 3 who were audited and who do not bring themselves into compliance with their MCLE Audit requirements by October 31, 2014, be enrolled as inactive members of the State Bar of California and placed on “Not Eligible to Practice” status, effective November 1, 2014; 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.

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

RESOLVED, following publication for comment and consideration of the comments received, and upon recommendation of the Board Committee on Operations, that the Board of Trustees hereby adopts the proposed revisions to the Rules of the State Bar, Title 3, Div. 2, Rules 3.50 and 3.52 (B), changing the title of non-lawyer State Bar Section members from “associate” members to “affiliate” members and to clarify that affiliate Section members are not members of the State Bar, in the form attached as Attachment A, effective on November 10, 2014.

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

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

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby increases from \$50 to \$75 the suggested donation line to the California Bar Foundation on the State Bar’s annual fee statement, subject to execution of the agreement between the State Bar and the Foundation regarding appropriate expenditure of and legal restrictions on revenue the Foundation obtains through the State Bar.

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

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

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby establishes the appointment of two Trustees of the Board Committee on Operations, to be designated, to serve as liaisons with the Chief Executive Officer, the State Bar’s legislative advocate, and State Bar Governmental Affairs staff during the course of any year of a legislative session regarding the development of legislative proposals that may lead to requests for an affirmative vote by the Board of Trustees to sponsor specific legislation.

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

117        Upon motion made, seconded and unanimously adopted, it was  
  
RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby establish a President Emeritus, as provided in the attachment hereto.

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

118        Upon motion made, seconded and unanimously adopted, it was  
  
RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby bestows upon Assembly Member Donald P. Wagner a State Bar Recognition Award, honoring his dedication to the State Bar, the protection of California citizens, the legal profession, and the principle of access to justice for all.

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

119        Upon motion made, seconded and unanimously adopted, it was  
  
RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby adopts the amendments to the budget of the State Bar as presented to the Board this day.

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

Board went into closed session at 9:40 am and those other persons present left the meeting

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. Ms. Moore had left the meeting.

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 Marcia Goodman, Long Beach, member, Review Committee of the Judicial Nominees Evaluation Commission, for a three-year term commencing at the close of the 2014 State Bar Annual Meeting (September 14, 2014) and expiring at the close of the 2017 State Bar Annual Meeting.

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

The Board returned to open session and adjourned its meeting at 9:45 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, 180 Howard Street, San Francisco, CA 94105, on Friday, November 7, 2014, at a time to be determined.