

## **AGENDA ITEM**

**NOVEMBER 10 - Board of Trustees – October 1, 2016 Open Minutes**

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

#### **OPEN MINUTES**

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

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

**October 1, 2016**

The Board of Trustees of The State Bar of California convened in open session at 8:09 am at the Marriott Marina and Marquis San Diego, Marina Ballroom D, 333 West Harbor Drive, San Diego, California, Saturday, October 1, 2016, David Pasternak presiding.

The following members of the Board of Trustees were present: Janet Brewer (arrived after roll call), Michael Colantuono, Terry Flanigan James Fox, Miriam Krinsky, Renée LaBran, Joanna Mendoza, Danette Meyers, Gwen Moore, Stacie Spector, Brandon Stallings, Todd Stevens and Terry Wiley.

The following members of the Board of Trustees were absent: Glenda Corcoran, Jason Lee, Hernán Vera.

The following members of staff were present: Randall Difuntorum, Dina DiLoreto, Francisco Gomez, Teri Greenman, Vanessa Holton, Lauren McCurdy, Elizabeth Parker, Leah Wilson.

Also present:

James J. Brosnahan, Senior Counsel, Morrison Foerster, Mark Broughton, Laura E. Duffy, U.S. Attorney, Southern District of California, Justice Lee Edmon, Chair, Commission for the Revision of the Rules of Professional Conduct, Michael Goodman, County of Los Angeles Alternate Public Defender, Laurie Levinson, Professor of Law, Loyola Law School, Cheryl McLandrich, criminal defense attorney, Michael Ogul on behalf of The California Public Defender's Association, Richard J. Ramirez, Toby Rothschild, Commission for the Revision of the Rules of Professional Conduct, Sean M. SeLegue, Charles Sevilla, San Diego private practitioner, Christina Spaulding, Office of State Public Defender, Alan Steinbrecher, Richard Zitrin, Lecturer in Law, University of California Hastings College of the Law.

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 slip voted yes.

1 Mr. Pasternak called for public comment, inquiring as to whether there were persons in attendance who wished to comment on a particular item on the agenda.

*Item #701 Proposed Amended Rules 5-110 and 5-220 of the Rules of Professional Conduct  
- Return from Public Comment and Request for Adoption*

James J. Brosnahan, Senior Counsel, Morrison Foerster, Michael Goodman, County of Los Angeles Alternate Public Defender, Laurie Levinson, Professor of Law, Loyola Law School, Cheryl McLandrich, criminal defense attorney, Christina Spaulding, Office of State Public Defender, Michael Ogul obo The California Public Defender's Association, Charles Sevilla, San Diego private practitioner and Richard Zitrin, Lecturer in Law, University of California Hastings College of the Law spoke in favor of the proposed amendments to Rule 5-110.

Laura E. Duffy, U.S. Attorney, Southern District of California spoke in opposition to the proposed amendments to Rule 5-110.

30 Mr. Pasternak introduced incoming Trustees Mark Broughton, Richard Ramirez, Sean SeLegue and Alan Steinbrecher.

Mr. Broughton and Mr. Steinbrecher were appointed by the Supreme Court to serve three-year terms commencing on October 2, 2016 and ending at the conclusion of the annual meeting in 2019. They will succeed Ms. Krinsky and Mr. Vera.

Mr. Ramirez was appointed to the public member seat by Assembly Speaker Anthony Rendon to serve a three-year term commencing on October 2, 2016 and ending at the conclusion of the annual meeting in 2019. Mr. Ramirez will succeed Mr. Moore.

Vice President Mr. Fox read a letter from Assembly Speaker Rendon announcing the appointment of Mr. Ramirez and expressing appreciation to Ms. Moore for her contributions to the work of the State Bar over the last seven years.

Mr. SeLegue was elected in District 1 to serve a three-year term commencing on October 2, 2016 and ending at the conclusion of the annual meeting in 2019. Mr. SeLegue will succeed Mr. Wiley.

Ms. Mendoza was elected in District 3 to serve a second three-year term commencing on October 2, 2016 and ending at the conclusion of the annual meeting in 2019.

The Bench and Bar Swearing-In Ceremony will take place in the Grand Ballroom, San Diego Marriott Marquis and Marina, at 10:45 a.m. on October 1, 2016.

Mr. Pasternak congratulated Trustee Jason Lee and his wife on the recent birth of their daughter.

Mr. Pasternak thanked staff for their hard work and expressed thanks and gratitude to the Trustees for their dedication during his presidency.

40 Ms. Parker, Executive Director, expressed her appreciation to Mr. Pasternak for his leadership.

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

RESOLVED, following notice and publication for comment and upon the recommendation of the Commission for the Revision of the Rules of Professional Conduct, that the Board of Trustees adopt proposed amended Rules 5-110 and 5-220 of the Rules of Professional Conduct, as set forth in Attachment A.

FURTHER RESOLVED, that staff is directed to submit the amended rules to the Supreme Court of California with a request that the rules be approved, together with a request that if approved, the amended rules be made operative on an expedited basis.

All members present and recorded on the roll-call slip voted yes except for Brandon Stallings who voted no. Danette Meyers recused herself from this item.

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

RESOLVED, that pursuant to California Rule of Court 9.31 and the Rules of the State Bar, 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 requirements by October 31, 2016, be enrolled as inactive members of the State Bar of California and placed on "Not Eligible to Practice" status, effective November 1, 2016; 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.

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

703 Ms. Wilson reported on the State Bar's past issuance of voluntary separation packages and requested a motion to initiate research on a proposed voluntary separation package that would be in line with the package offered in 2011.

Ms. Wilson stated she would report back to the board on any impact this might have on the fund balances.

MOTION by Ms. Krinsky to continue this item to the October 2, 2016 Board of Trustees meeting.

All members present and recorded on the roll-call slip voted yes except for Gwen Moore who voted no.

704 There was no discussion on this item.

The Board adjourned its meeting at 9:56 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, at the State Bar, 180 Howard Street, Board Room, 4<sup>th</sup> Floor, San Francisco, CA 94105, on Friday, November 18, 2016, at a time to be determined.