



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

50-3 SEPTEMBER 2019

DATE: September 19, 2019

TO: Members, Board of Trustees

FROM: Mark Broughton, Appointments Liaison, Board Executive Committee
Brandon Stallings, Appointments Liaison, Board Executive Committee

SUBJECT: Legal Services Trust Fund Commission – Annual Appointment of Officers and Reappointment of Member

EXECUTIVE SUMMARY

This agenda item presents the recommendations of the Board Executive Committee's Appointment Liaisons (Liaisons) for the 2019-2020 Chair and Vice-Chair appointments to the Legal Services Trust Fund Commission (LSTFC). Liaisons recommend that Banafsheh Akhlaghi and Eric Isken be appointed as Chair and Vice-Chair, respectively, for the 2019-2020 Commission year. In addition, Liaisons recommend the re-appointment of Christian Schreiber to the LSTFC for a full, four year term.

For more information about this item, please contact Director of the Office on Access & Inclusion, Hellen Hong at Hellen.Hong@calbar.ca.gov or at 415-538-2249.

BACKGROUND

Functions of The LSTFC

The LSTFC was established by the Board of Trustees in 1982 to administer revenue from the Interest on Lawyers' Trust Accounts (IOLTA) and other funds "remitted to the Legal Services Trust Fund Program of the State Bar."¹ Grants from these funds are made to nearly 100 nonprofit providers of such legal services, including resource centers that provide technical assistance and support to direct providers. In 2019, the LSTFC distributed over \$63.2 million in legal aid grants.

¹ Title 3, Division 5, Chapter 2, Article 1, Rule 3.660, Rules of the State Bar.

The Board has delegated to the commission three primary duties:

1. The LSTFC must determine an applicant's eligibility for grants and notify each grant applicant that its application has been approved or denied.²
2. The LSTFC must monitor and evaluate a recipient's compliance with Trust Fund requirements and grant terms.³
3. The LSTFC may terminate a grant for noncompliance or require a grant recipient to take corrective action.⁴

The LSTFC fulfills its duties to oversee grants distribution and recipient compliance primarily through committee work. The three primary committees are described below:

1. The Eligibility and Budget Review Committee is charged with responsibility for reviewing annual IOLTA and Equal Access Fund (EAF) applications from nonprofit organizations. All eligibility questions are discussed by the committee and staff, and when eligibility is unclear, committee members may request in-person eligibility conferences with applicants. Committee recommendations for eligibility are reported to the LSTFC, which takes formal action to approve or deny eligibility. Additionally, this committee is responsible for reviewing and approving proposed budgets submitted by eligible programs for their utilization of IOLTA and EAF grants. The committee has responsibility for determining that budgets conform to statutory requirements and regulatory rules governing the use of these funds. This committee is also charged with the responsibility of reviewing cases in which a grantee's funding may be terminated because of their failure to comply with relevant legal standards and authorities.
2. The Partnership Grants Committee is charged with administering funds set aside for the Partnership Grants Program. Funded pursuant to language in the budget with 10 percent of EAF monies, Partnership Grants are used to support joint projects of court and legal services programs to provide services to indigent self-represented litigants. These grants are discretionary, both in terms of the programs that receive funding as well as the amounts of funding to be allocated to each successful applicant. Committee recommendations are presented to the full commission for approval, and these recommendations are then reported to the Judicial Council, which has final authority to approve these grants.

² Title 3, Division 5, Chapter 2, Article 1, Rule 3.661(A), Rules of the State Bar.

³ Title 3, Division 5, Chapter 2, Article 1, Rule 3.661(B), Rules of the State Bar.

⁴ Title 3, Division 5, Chapter 2, Article 1, Rule 3.661(D), Rules of the State Bar.

3. The Bank Grants Committee assumed responsibility for administering funds received from legal settlements with the US Department of Justice and Bank of America and Citi. The funds are to be used for foreclosure prevention legal assistance and for community redevelopment legal assistance. Previously, the committee set all parameters regarding grant eligibility, the amounts available for distribution, funding criteria and priorities, and grant periods. To date, the LSTFC has allocated \$40.8 million to fund 128 community redevelopment and foreclosure prevention projects.

Size of LSTFC

The LSTFC consists of 21 voting members, and three nonvoting judicial advisors. The Board appoints 14 of the 21 voting members, 10 of whom must be members of the State Bar and 4 of whom must be public members. The Chief Justice, as chair of the Judicial Council of California, appoints seven of the 21 voting members, five of whom must be members of the State Bar and two of whom must be public members, as well as the three nonvoting judicial advisors, one of whom must be an appellate justice. Two of the public members (whether appointed by the State Bar or the Judicial Council) must be or have been within five years of appointment indigent persons as defined by Business and Professions Code section 6213(d). In addition, the Board appoints officers of the LSTFC. Typically, Board-appointed members of the LSTFC serve for a term of four years. In addition, membership can be extended to serve as an officer.

DISCUSSION

For some time now, the LSTFC has maintained a structure with two Chairs and two Vice-Chairs. This is not an arrangement that exists in any other sub-entity. As such, Liaisons concur with staff recommendations and propose the following appointments and propose that going forward, the officers of the commission be reduced to one Chair and one Vice-Chair.

Corey Friedman and Christian Schreiber are rolling off as Co-Chairs. Ms. Friedman remains on the commission as a Judicial Council appointment. Liaisons concur with staff recommendations and propose that Christian Schreiber be re-appointed as a commissioner for a four year term. Based on his experience, qualifications, and his contributions to the LSTFC, Mr. Schreiber is a valuable member of the Commission.

The two current Vice-Chairs of the LSTFC, Banafsheh Akhlaghi and Eric Isken are the only two commissioners who expressed interest in becoming Chair. Following interviews with both candidates, Liaisons concur with staff recommendations and find that while both are

qualified, Banafsheh Akhlaghi is best positioned to serve as Chair and Eric Isken should be re-appointed as Vice-Chair. Ms. Akhlaghi has 20 years in the law practices of immigration, human and civil rights, intellectual property and teaching. She is a founder of two human/civil rights nonprofit organizations. She has been on the commission since 2010. Based on her active participation and historical knowledge of the LSTFC, staff recommends she be appointed Chair. Eric Isken is an adjunct professor at University of California School of Law and a retired Assistant General Counsel/Chief Litigation Attorney at Southern California Edison. He was appointed to the LSTFC in 2017 and has been an active member, but does not have nearly the amount of experience with the commission as Ms. Akhlaghi. Ms. Akhlaghi is based in the Bay area and Mr. Isken in Los Angeles, which provides for geographic representation for this commission.

The LSTFC Co-Chair, Christian Schreiber agreed with the recommendation relating to the reduction in the number of officers and the individuals recommended for Chair and Vice-Chair. (Co-Chair, Corey Friedman could not be reached as she is out of the country.)

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

It is recommended that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve the appointment of Banafsheh Akhlaghi for a one-year term as Chair and the re-appointment of Eric Isken for a one-year term as Vice-Chair of the Legal Services Trust Fund Commission commencing at the close of the

September 2019 meeting of the Board of Trustees and expiring at the close of September 2020 meeting of the Board of Trustees.

FURTHER RESOLVED that the Board of Trustees approve the appointment of Christian Schreiber as an attorney member on the Legal Services Trust Fund Commission for a four year term commencing at the close of the September 2019 meeting of the Board of Trustees and expiring at the close of September 2023 meeting of the Board of Trustees.

ATTACHMENT(S) LIST

None