



The State Bar of California

Minutes

Committee on Special Discipline Case Audit

October 12, 2021

12:00 p.m.–4:00 p.m.

Zoom Webinar

Time meeting commenced: 12:05 p.m.
Time meeting adjourned: 4:00 p.m.
Chair: José Cisneros
Members present at roll call: Mark Broughton, Hailyn Chen, Ruben Duran, Sean SeLegue, Melanie Shelby
Members absent: N/A
Also present: Randall Difuntorum, Linda Katz, Melanie Lawrence, Richard Schaffler, Leah Wilson
Committee coordinator: Louisa Ayrapetyan

I. CHAIR'S REPORT

A. Roll Call

Chair, José Cisneros called the meeting to order at 12:05 p.m. Roll call was taken, and a quorum was established.

B. Call for Public Comment

Chair, José Cisneros called for public comment, inquiring as to whether there were person(s) in attendance who wished to comment on any agenda item. There were no members of the public in attendance who wished to speak on any agenda item.

II. BUSINESS

A. Discussion Regarding Program Management Design: Client Trust Accounts

Mr. Schaffler introduced Ms. Chioma Ufodike Senior Manager Risk Finance and her colleagues Ms. Bernadette Charan Manager from the Alberta Trust Safety Program and Mr. Casey McNally, Marketing Director with Price Waterhouse Coopers, explaining that they would be presenting on Alberta's Client Trust Account (CTA) compliance and auditing program.

Ms. Ufodike explained that Alberta's program is organized around three components:

- **Compliance and support:** Applications, Filing requirements, Customer support
- **Audits & Analytics:** Compliance Audits and Data Analytics
- **Education:** Education Outreach Awareness

Each component was described in detail; Alberta program staff complete most of the work with PwC responsible for receiving electronic financial data from attorneys and doing data analytics to generate dashboards for program staff to review and act upon.

Ms. Ufodike explained that there are ten staff responsible for the work, in addition to the PwC contract. About 150 audits are completed annually. Attorneys are generally targeted for audit on a risk-basis, however there are designated audit slots for certain types of attorneys/accounts which are determined independent of a risk analysis.

Ms. Ufodike indicated that she had reviewed the proposed California CTA audit program design that had been circulated for comment for the meeting and had some suggested edits, which were shared with the committee.

Mr. Schauffler provided an overview of the proposed California program design which included Ms. Ufodike's suggested modifications.

The committee decided to recommend the proposed program, as modified by Ms. Ufodike, to the Board as part of its final report. In addition, the committee asked staff to explore ways to stage implementation, with some steps, such as registration and compliance certification, coming first.

Malpractice Insurance – Presentation

Ms. Wilson introduced Ms. Linda Katz who provided a brief overview of the State Bar's most recent effort to explore the issue of mandatory malpractice insurance. That effort, culminating in a report issued in March 2019, by the Malpractice Insurance Working Group (MIWG) addressed the following:

- Adequacy, availability, and affordability of insurance
- Measures for encouraging attorneys to obtain and maintain insurance
- Recommended ranges of insurance the limits that would protect the public
- The adequacy of the rule requiring attorneys to disclose if they do not have insurance
- Advisability of mandating insurance for all licensed attorneys

Ms. Katz explained that ultimately the MIWG did not recommend that malpractice insurance be made mandatory for California attorneys based on concerns that doing so would increase the cost of practice for solo and small firm practitioners. Ms. Katz noted that quantifying the financial harm suffered by victims of uninsured lawyers is difficult because their claims are not pursued.

Considering recent events that led to the creation of this committee, the members agreed that the March 2019 MIWG report should be brought back to the Board, to provide an opportunity to reconsider options regarding malpractice insurance requirements.

Next Meeting Canceled

Ms. Wilson stated that the October 19, 2021, meeting would be canceled, and the attorney conduct issues will be discussed at the October 28, 2021, meeting.

Closed Session

Chair, José Cisneros stated that pursuant to Government Code section 11126(a)(1) and 11126(c)(2) the committee will move into closed session to discuss audit of closed Office of Chief Trial Counsel files. The committee returned to open session and reported that there was no action to report. No further discussion took place in open session.

ADJOURN