



The State Bar of California

Regulation and Discipline Committee Teleconference

Open Session Minutes
Thursday, November 18, 2021
11:03 a.m.–1:00 p.m.

Time Meeting Commenced: The Regulation and Discipline Committee meeting commenced in open session at 11:03 a.m. The committee moved to closed session at 11:55 a.m. The committee returned to open session at 12:59 p.m.

Time Meeting Adjourned: 1:00 p.m.

Chair: Hailyn Chen

Committee Coordinator: Justin Ewert

Members Present: Mark Broughton, José Cisneros, Ruben Duran, Christine Gonong, Sean SeLegue, Melanie Shelby, Arnold Sowell, Brandon Stallings

Members Absent: Juan De La Cruz, Joshua Perttula

OPEN SESSION

ROLL CALL

The Regulation and Discipline Committee was called to order by Chair Chen. Roll call was taken and a quorum was established.

CALL FOR PUBLIC COMMENT

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

I. CHAIR'S REPORT

Chair Chen provided an oral report.

II. CONSENT

A. Amendment to Rule of Procedure 2201 (Appointment and Authority): Return from Public Comment and Request for Approval

RESOLVED, that the Regulation and Discipline Committee recommends that the Board of Trustees approve and adopt proposed State Bar Rule of Procedure 2201, attached hereto as Attachment B.

Moved by Duran, seconded by Cisneros.

Ayes – (8) Broughton, Cisneros, Duran, Gonong, SeLegue, Shelby, Sowell, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) De La Cruz, Perttula

Motion carries.

III. BUSINESS

A. Formal Advisory Ethics Opinion 2021–207: Request for Approval of Publication

Presenter: Andrew Tuft, Supervising Attorney, Office of Professional Competence

RESOLVED, that the Regulation and Discipline Committee; following publication for public comment and consideration of the comments received, and upon the recommendation of the State Bar Standing Committee on Professional Responsibility and Conduct, approves the publication of Formal Ethics Advisory Opinion 2021-207, attached here as Attachment A.

Moved by Cisneros, seconded by Shelby.

Ayes – (8) Broughton, Cisneros, Duran, Gonong, SeLegue, Shelby, Sowell, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) De La Cruz, Perttula

Motion carries.

B. Proposed Amendments to the Client Security Fund Rules Regarding Electronic Service: Request to Circulate for Public Comment

Presenters: Lori Meloch, Program Director, Office of Professional Support & Client Protection

RESOLVED, that the Regulation and Discipline Committee authorize staff to make available, for public comment for a period of 30-days, proposed amendments to: Title 3, Division 4, Chapter 1, rule 3.440, Client Security Fund rules and Title 3, Division 4, Chapter 1, rule 3.445, Client Security Fund rules, as set forth in Attachment A; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amended Client Security Fund rules of the State Bar of California.

Moved by Broughton, seconded by Sowell.

Ayes – (8) Broughton, Cisneros, Duran, Gonong, SeLegue, Shelby, Sowell, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) De La Cruz, Perttula

Motion carries.

C. Proposed Amendment to Rules 5.65, 5.337, and 5.345 of the Rules of Procedure: Request to Circulate for Public Comment

Presenter: George Cardona, Chief Trial Counsel

RESOLVED, that the Regulation and Discipline Committee authorize staff to make available for public comment for a period of 45 days proposed amendments to rules 5.65, 5.337, and 5.345 of the Rules of Procedure of the State Bar of California, and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amended Rules of Procedure of the State Bar of California.

Moved by SeLegue, seconded by Cisneros.

Ayes – (8) Broughton, Cisneros, Duran, Gonong, SeLegue, Shelby, Sowell, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) De La Cruz, Perttula

Motion carries.

D. Proposed Amendment to Rule 5.80 of the Rules of Procedure: Request to Circulate for Public Comment

Presenter: George Cardona, Chief Trial Counsel

RESOLVED, that the Regulation and Discipline Committee authorize staff to make available for public comment for a period of 45 days proposed amendments to rules 5.65, 5.337, and 5.345 of the Rules of Procedure of the State Bar of California, and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amended Rules of Procedure of the State Bar of California.

Moved by Stallings, seconded by Duran.

Ayes – (8) Broughton, Cisneros, Duran, Gonong, SeLegue, Shelby, Sowell, Stallings

Noes – (0)

Abstain – (0)

Absent – (2) De La Cruz, Perttula

Motion carries.

E. Proposed Amendment to Consumer Alert Policy to Clarify that it Applies to Felony Charges in All Courts

Presenter: George Cardona, Chief Trial Counsel

RESOLVED, that the Regulation and Discipline Committee recommends that the Board of Trustees adopts the proposed amendments to the Board Policy regarding posting of a consumer alert upon the filing of felony charges against an attorney as set forth in Attachment A; and it is

FURTHER RESOLVED, that the Regulation and Discipline Committee recommends that the proposed amendments to the Board Consumer Alerts policy become effective immediately.

Moved by SeLegue, seconded by Gonong.

Ayes – (6) Cisneros, Duran, Gonong, SeLegue, Sowell, Stallings

Noes – (0)

Abstain – (2) Broughton, Shelby

Absent – (2) De La Cruz, Perttula

Motion carries.

F. Overview of Twice-Yearly Random Audit of the Office of Chief Trial Counsel Closed Cases and the Office of Chief Trial Counsel Response

Presenter: George Cardona, Chief Trial Counsel

Chair Chen stated that pursuant to Government Code section 11126(a)(1) and 11126(c)(2) the committee will move into closed session to discuss Rule of Procedure 2201: case status update and evaluation of chief trial counsel.

CLOSED SESSION

I. CONSENT

A. Rule of Procedure 2201: Case Status Update

II. BUSINESS

A. Evaluation of Chief Trial Counsel

OPEN SESSION

The committee returned to open session and reported that there is no action to report from closed session. No further discussion took place in open session.

ADJOURN