



**MINUTES OF THE MEETING
OF THE BOARD OF GOVERNORS
Video Conference -- Las Vegas and Reno, NV
December 8, 2010**

A regular meeting of the Board of Governors of the State Bar of Nevada was convened on December 8, 2010. The meeting was conducted via video-conference between the state bar office in Reno and Las Vegas.

The following members were in attendance:

Cam Ferenbach, President
Connie Akridge, President-Elect
Frank Flaherty, Vice President
Kathleen England, Immediate Past President
James Bradshaw
Elizabeth Brickfield
Amber Candelaria
Larry Digesti
Elana Graham
Bruce Hahn
Alan Lefebvre
Vincent Ochoa
Bryan Scott
Richard Scotti
Mason Simons
John White

State Bar staff present:

Kimberly Farmer
Gale Skala
Rob Bare
David Clark
Laura Gould
Marc Mersol
Lisa McGrane

Guests:

Todd Kennedy
Robert Kim
Ann Morgan
Layne Rushforth
Matt Watson
Ryan Works

The meeting was called to order by President Cam Ferenbach at 9:52 am, there being a quorum present.

PRESIDENT'S REPORT, CAM FERENBACH

Cam Ferenbach reported on the status of financial institutions paying the interest rate on IOLTA funds as set forth in SCR 217.

EXECUTIVE DIRECTOR'S REPORT, KIMBERLY FARMER

Kimberly Farmer reported on the current staffing matters. Ms. Farmer congratulated David Clark on his appointment to Bar Counsel and reported the status of recruiting for the open position of General Counsel created by the promotion of Mr. Clark.

DISCUSSION ITEMS

The Board discussed the following questions using the generative discussion process, no action items came from the discussion.

Question: Does SCR 86 (12), which creates the Fee Dispute Arbitration Program, adequately protect the public and provide for an effective system of fee dispute resolution?

Todd Kennedy, Fee Dispute Committee Panel A Regional Chair, provided the Board with an update on some of the challenges the Fee Dispute program is facing, namely the lack of enforcement for arbitration decisions. Attorney participation is not mandatory, and even if attorneys sign binding arbitration agreements, they sometimes refuse to abide by the arbitration decision. As a result, clients are often forced to hire legal representation and go to court over the fees – defeating the purpose of the Fee Dispute program. Mr. Kennedy presented several options to the Board to improve the current system. The Board was receptive to mediation as a first step in the process, regardless of the total amount in dispute. It was also discussed that mediation would become more effective if arbitration becomes mandatory and there is some enforcement of the decision. The Board also suggested rewriting the Fee Dispute Program Bylaws to clarify the process. The Board requested a follow up on this issue as well information on:

- The types of cases that typically involve the Fee Dispute program.
- On overview of the process and procedures used by other bars incorporating a mandatory fee dispute program.
- Incentives for participation by lawyers in the fee dispute process.

Question: Should SCR 42 be extended to allow pro hac vice admittance to attorneys participating in private arbitrations?

After some discussion and support by the Board to move forward, Cam Ferenbach requested that a report be prepared on this matter with the intent the Board will take the issue up at a later Board meeting.

Question: Does the current policy of calculating member dues provide for clarity and fairness?

This matter has been discussed at past Board meetings. After a brief discussion during this meeting, Cam Ferenbach requested that a report be prepared on the dues issue, particularly a review of the impact on member dues revenues.

APPOINTMENTS

Discipline Panels

It was moved, seconded and approved to appoint Oliver Pancheri to the Southern Nevada Disciplinary Board for a three year term commencing December 1, 2010.

It was moved, seconded and approved to reappoint attorney Sigal Chattah to the Southern Nevada Disciplinary Board for a three year term commencing December 1, 2010.

It was moved, seconded and approved to reappoint non attorney member Alejandro Yanez to the Southern Nevada Disciplinary Board for a three year term commencing December 1, 2010.

Character and Fitness Committee

It was moved, seconded and approved to reappoint John R. Bailey for a three year term on the Character and Fitness Committee commencing November 1, 2010.

Board of Bar Examiners

It was moved, seconded and approved to reappoint the following members to the Board of Bar Examiners for three year term commencing January 1, 2011.

David Frederick, Seat E

Eileen O'Grady, Seat D

Carol Davis Zucker, Seat K

Elizabeth Brickfield abstained from voting due to her working relationship with a member.

Fee Dispute Arbitration Committee

It was moved, seconded and approved to reappoint Michael Navritil, Panel A to the Fee Dispute Arbitration Committee for a three year term commencing December 1, 2010.

It was moved, seconded and approved to appoint Steven Castronova, Reno Panel to the Fee Dispute Arbitration Committee to a three year term commencing December 1, 2010.

Intellectual Property Section Officers

It was moved, seconded and approved to appoint the following slate of officers for the Intellectual Property Section.

Chair: Kim Cooper

Vice Chair: Linda Norcross

Secretary: Roland Tong

Treasurer: Charles Lombino

Ex Officio: Catherine Cary

Membership Committee Chair: Clarke Walton

Membership Committee Chair: Richard Newman

Legislative/Substantive Law Committee Chair: Peter Ajemian

Legislative/Substantive Law Committee Chair: Seaton Curran

CLE Committee Chair: Laura Bielinski

CLE Committee Chair: Jonathan Matkowsky

Frank Flaherty and Amber Candelaria abstained from voting.

Board of Continuing Legal Education

It was moved, seconded and approved to reappoint Hon. Bridget Robb Peck as the Chair of the Board of Continuing Legal Education to a one year term commencing January 2011.

Standing Committee on Judicial Ethics and Election Practices

It was moved, seconded and approved to appoint Robert Martin to the Standing Committee on Judicial Ethics and Election Practices to a one year term commencing January 1, 2011.

It was moved, seconded and approved to reappoint the following members for a one year term to the Standing Committee on Judicial Ethics and Election Practices commencing January 1, 2011.

Eric Dobberstein
Michael A. T. Pagni
Michael A. Pintar
G. David Robertson
Bernard Zadrowski

ACTION ITEMS

October 31, 2010 Financial Statement

Marc Mersol reviewed the financial statements of the State Bar as of October 31, 2010.

2011 Proposed Budget

Marc Mersol presented the 2011 proposed budget highlighting a few changes in the structure of the budget. It was moved, seconded and carried to approve the 2011 proposed budget of the State Bar.

Investment Committee

Elizabeth Brickfield and Marc Mersol gave a report from the investment committee.

Bylaws Change

In consideration of the proposed bylaw change, it was moved, seconded and approved to waive the notice requirement regarding amending the bylaws of the State Bar.

It was moved, seconded and approved to approve the proposed bylaw change. The bylaw revision shall read:

5.9 Elections If there is only one nominee for an office, the nominee is deemed elected without balloting. When there is more than one nominee for an office, balloting for election will be as follows: the President appoints, an election proctor, an ex-officio member of the Board of Governors along with the Executive Director. If additional nominations have been made that are not on the printed ballot, those names must be written on the ballot. Each member, including the President must vote for one nominee only. The President must provide his/her ballot to the election proctor to hold in abeyance pending the vote tally from the other members. Only in the event of a tie vote is the President's ballot examined by the proctor and then counted before the vote results are announced. The person receiving the majority of the votes is elected. In the case of a member who is participating via teleconference he or she shall transmit his or her vote via e-mail or a text message to the Executive Director or election proctor. While the preference is e-mail, if a member has no access to e-mail they can convey their vote telephonically to the Executive Director or election proctor. Voting by proxy is not allowed.

Lawyer Referral and Information Service

Kimberly Farmer gave a status report on the history of the LRIS Designated Fund. The LRIS Committee reviewed recommendations from the Board's 2009-2010 workgroup (Cam Ferenbach, Larry Digesti, Connie Akridge and Frank Flaherty) on the LRIS Designated Fund. The LRIS Committee modified the workgroup's formula and requested approval of the following recommendation.

- Establish a Designated Fund with a beginning balance of \$400,000 for granting. Establish a Non-formula Designated Fund with the remaining balance of \$387,151. All funds over and above the dollars going to the Designated Fund (using the formula below) will be held in the Non-formula Designated Fund.
- Grant formula = 75% of the prior year's revenue + 25% of the Designated Fund Balance + \$20,000 from the Non-formula Designated Fund.
Note: If/when the Non-formula Designated Fund declines to \$200,000, the annual \$20,000 contribution will cease.

It was moved, seconded and approved to approve the LRIS committee recommendations. Elana Graham abstained from voting due to her working relationship with one of the grantees.

Advertising Report

David Clark reported on the annual report to the Supreme Court on Lawyer Advertising. It was moved, seconded and carried to approve the annual Lawyer Advertising report.

Real Property Section

Matt Watson of the Real Property Section gave a summary of the proposed changes for the 2011 Legislative Session. It was moved, seconded and approved to support the proposed legislative agenda of the Real Property Section.

Business Law Section

Robert Kim, chair of the Business Law Section gave a review of the proposed changes for the 2011 Legislative Session. It was moved, seconded and approved to support the legislative agenda of the Business Law Section.

Probate and Trust Section

Layne Rushforth of the Probate and Trust Section gave a summary of the proposed changes for the 2011 Legislative Session. It was moved, seconded and approved to support the proposed legislative agenda of the Probate and Trust Section.

REPORTS

Young Lawyers Report

Ryan Works reported on the most recent activities of the Young Lawyers Section. The section is very involved in the planning of the ABA Spring Conference hosted in Las Vegas in 2011.

EXECUTIVE SESSION

The Board entered into Executive Session at 2:35 p.m. and concluded the Executive Session at 3:15 p.m.

CONSENT AGENDA

The October 13, 2010 minutes and the Contracts: Texas Station were removed from the consent agenda for discussion.

Minutes of October 13, 2010

It was moved, seconded and approved to approve the amended minutes of October 13, 2010. Bryan Scott abstained from voting due to his absence at the October meeting.

Contracts: Texas Station

Laura Gould, Director of Admissions, gave a status report on the possibility of using UNLV as the Bar Examination site. It was moved, seconded and approved to approve a contract with UNLV if fiscally responsible. It was also moved, seconded and approved to approve the Texas Station contract in the event UNLV does not work out.

It was moved, seconded and carried to approve the remaining consent agenda items as follows:

Section Update

Requested dues increase of the Administrative Law Section to \$25.

Application of Resignation

Resignation of Andrew Spalding.

ADJOURNMENT

There being no new business before the Board, the meeting adjourned at 3:15 p.m.