

Board Meeting Minutes **12/07//01**

A regular meeting of the Board of Governors of the State Bar of Nevada was convened by President John H. Mowbray on December 7, 2001, at 9:40 a.m. in the Board Room of the State Bar of Nevada in Las Vegas, Nevada.

The following members of the Board of Governors were in attendance:

John H. Mowbray President
Gloria J. Sturman President-Elect
Daniel P. Polsenberg Immediate Past President
Nancy L. Alif
Bruce T. Beesley
Vincent A. Consul
Michael D. Davidson
Kathleen J. England
Dara J. Goldsmith
Rew R. Goodenow
Bridget Robb Peck
John Paul Schlegelmilch (by telephone)
William C. Turner
Steven B. Wolfson

STATE BAR STAFF MEMBERS PRESENT:

Allen W. Kimbrough
Rob Bare
Marla Hockfeld
Marc Mersol
Audrey Bath
Georgia Taylor

GUESTS:

Luke Puschnig
David Amesbury

1. CALL TO ORDER

The President welcomed the Board members and guests. Dan Polsenberg led a prayer for Vice President Pat Flanagan, who is recuperating from an accident.

2. APPROVAL OF MINUTES OF OCTOBER 17, 2001 MEETING OF THE BOARD OF GOVERNORS

The minutes of the October 17, 2001 meeting of the Board of Governors were approved unanimously.

3. REPORT OF CONTROLLER

The Controller presented the Financial Statements of the State Bar as of October 31, 2001 and reviewed them with the Board.

The Board authorized the Executive Director and the Controller to execute all necessary documents to establish the \$300,000 line of credit for the State Bar at BankWest of Nevada previously discussed and approved. Any draws on the line of credit would require the approval of the Operations Committee.

The Board ratified the action of the Operations Committee on November 29, 2001, approving banking resolutions for the State Bar's account at Bank of America.

4. CONSIDER APPROVAL OF 2002 OPERATING BUDGET

Having been approved by the Budget Committee at its meeting on November 29, 2001, the proposed 2002 Operating Budget for the State Bar of Nevada was presented to the Board by Steve Wolfson, Chair of the Budget Committee, and by Marc Mersol, Controller. Mr. Mersol reviewed the various provisions of the Budget with members of the Board, noting that the 2002 Budget projected a positive cash flow of \$166,415. The 2002 Budget as proposed also includes a 2.5% cost-of-living adjustment for staff salaries (previously approved by the Compensation and Personnel Committee). Upon motion made and seconded the 2002 Operating Budget was approved unanimously. The Board expressed its appreciation to the Budget Committee and to Mr. Mersol for their efforts and presentation.

5. CONSIDER LAWYER REFERRAL AND INFORMATION SERVICE RESTRICTED REVENUES AND TRANSFERS

The Board approved the transfer of the LRIS fund balance at December 31, 2000 of \$24,702 from the unrestricted fund balance to the LRIS Restricted Fund, which may be used only for the operation of the LRIS Department or for other permissible projects.

From the LRIS Restricted Fund, the Board of Governors unanimously made the following allocations to the unrestricted fund balance:

- < \$17,000 for the purchase of new LRIS software;
- < \$18,000 to fund the anticipated part-time Coordinator of Law Related Education; and
- < Up to \$25,000 for hardware and software required to bring the State Bar website "in house."

6. CONSIDER LAW RELATED EDUCATION PROGRAM

The President provided the Board with background information regarding the history of law related education in Nevada, and the expressed desire of the Nevada Center for Law Related Education to have its duties and responsibilities assumed by the State Bar. The Executive Director further reviewed with the Board his written comments on this subject.

Following a discussion the Board voted to approve the following:

- < Creation of the part-time position of Coordinator of Law Related Education as an employee of the State Bar (to be funded as approved in Item 5 above);
- < Authorization for the President and the Executive Director to conclude negotiations

with the Nevada Center for Law Related Education for the assumption of its duties, responsibilities and funds; and
< Creation of the State Bar Committee on Law Related Education (to be appointed by the President).

7. CONSIDER REVISIONS TO FEE DISPUTE ARBITRATION COMMITTEE BYLAWS

Luke Puschnig, Regional Chair of the Fee Dispute Arbitration Committee appeared before the Board to discuss pending issues and to present revisions to the current Bylaws of the Committee for the Board's consideration.

The Board engaged in an extensive discussion with Mr. Puschnig regarding various matters related to the work of the Committee, which is governed by SCR 86(12). Consideration was given to possibly requesting the Supreme Court to amend such rule to provide for mandatory participation in the arbitration process under threat of discipline, but the consensus was to defer further discussion of this topic to the January meeting of the Board. Mr. Bare was requested to gather information on this topic.

With respect to the proposed Bylaws, the following amendments were proposed by the Board:

- To delete from Section A(2) the words "and no person shall serve more than three (3) consecutive terms"; and
- To delete Section C(6) in its entirety.

Upon motion made and seconded, the proposed Bylaws (as amended) were approved.

8. CONSIDER APPOINTMENT TO FEE DISPUTE ARBITRATION COMMITTEE

The Board appointed Gary C. Milne to Las Vegas Panel A of the Fee Dispute Arbitration Committee.

9. MEMBER SERVICES

The Board considered the ABA Members Retirement Program's June 2001 Progress Report. The Executive Director reported to the Board on the status of negotiations with Lexis-Nexis and the pursuit of group health insurance for Bar members.

10. CONSIDER ADJUSTMENTS TO NORTHERN AND SOUTHERN NEVADA DISCIPLINARY BOARDS

The Board approved changing the status of the Southern Nevada Disciplinary Board members Bruce Leslie and Howard Miller from Alternate Attorney Members to Attorney Members.

The Board discussed its desire to receive periodic reports from the two Disciplinary Boards and requested that Richard Pocker, Southern Nevada Regional Chair, appear at the March meeting of the Board. Members of the Board further requested that efforts be made to recruit new members of the Disciplinary Board, particularly persons of color.

11. CONSIDER APPOINTMENTS TO STANDING COMMITTEE ON JUDICIAL ETHICS AND ELECTION PRACTICES

The Board approved (with Mr. Wolfson abstaining) the reappointment of the following members of the Standing Committee on Judicial Ethics and Election Practices: C. Stanley Hunteerton, R. Gardner Jolley, Thomas E. Perkins, Thomas R. Sheets and Steven Wolfson. Additionally, the Board appointed Kathleen M. Paustian as a member of the Committee, replacing the late John McCune.

12. CONSIDER APPOINTMENTS TO STANDING COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT

Dennis Kennedy, Jeffrey Stempel and J. T. Moran III were each appointed to two-year terms as members of the Standing Committee on Professional Responsibility and Conduct.

13. GAMING LAW SECTION

The Board ratified the Executive Committee of the Gaming Law Section's nominations of Anthony N. Cabot and Keith E. Kizer for reappointment to three-year terms on the Executive Committee of the Section.

14. LIAISON APPOINTMENTS

Dara J. Goldsmith was designated as Board liaison to the Elder Law Section; Bridget Robb Peck was designated as Board liaison to the Bankruptcy Section; and Kathleen England was designated as the Board's co-liaison to the Young Lawyers Section (with Vice President Flanagan).

15. LAWYERS CONCERNED FOR LAWYERS

The Board considered the written report of Coe Swobe, Coordinator of the Lawyers Concerned for Lawyers Program, as well as the report of the ABA Lawyer Assistance Program review team. Further discussion of this subject was continued to a subsequent meeting of the Board.

16. REPORT OF CLE DEPARTMENT

The Board considered the written report of CLE Director Christopher Boadt.

17. CONSIDER CLIENT SECURITY FUND ISSUES

David Amesbury appeared before the Board to discuss the status of the State Bar's Client Security Fund, including the potential shortfall of \$5,000-6,000 in order to be able to make payments to 2001 claimants. On motion made and seconded, the Board approved a budget amendment to increase the amount to be transferred by the State Bar into the Client Security Fund in 2001 by \$7,500, for a total of \$85,500. Mr. Goodenow dissented from this vote.

The Board discussed the concerns previously addressed by the Budget Committee and

agreed that there are issues related to the Client Security Fund which merit further study and action. In particular, the members of the Board expressed a desire for the Client Security Fund to have a business plan, to more aggressively seek recovery opportunities or criminal prosecutions, and to consider avenues for increased funding.

The Board unanimously approved the formation of a Task Force to be chaired by Dara Goldsmith to study the situation and make recommendations to the Board for further action. Other members of the Task Force would include Rew Goodenow, Steve Wolfson, Bill Turner, David Amesbury, Rob Bare of the State Bar staff, and such other members as the Chair may deem appropriate.

18. REPORT OF THE COMMUNICATIONS DEPARTMENT

Marla Hockfeld, Director of Communications, appeared before the Board and reported on the activities of the Communications Department.

19. REPORT OF BAR COUNSEL

The Board approved the proposed ADKT petition regarding new SCR 106.5 pertaining to the Lawyers Concerned for Lawyers program.

Bar Counsel Rob Bare reviewed the current Discipline Statistical Report with the Board.

20. REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Allen Kimbrough gave oral comments in supplementation of his written report to the Board, noting in particular issues regarding the use of the State Bar office building by outside parties.

21. REPORT OF PRESIDENT

President John Mowbray reported to the Board regarding the completion of the work of the Supreme Court Commission on Multijurisdictional Practice, whose Report with recommendations was filed with the Court 92 days after its organizational meeting. Mr. Mowbray expressed his appreciation to Commission Chair Thomas R. C. (Spike) Wilson II, the members of the Commission, and the Executive Director (who served as Reporter).

22. EXECUTIVE SESSION

In executive session the Board discussed the annual review of the Executive Director as conducted by the Operations Committee on November 29, 2001, and ratified the salary adjustment for the Executive Director recommended by that Committee.

23. ADJOURNMENT

The meeting was adjourned at 2:35 p.m.
Respectfully submitted,

John H. Mowbray
President

Allen W. Kimbrough
Executive Director