

June 18, 2003

MINUTES OF THE MEETING OF THE BOARD OF GOVERNORS

A regular meeting of the Board of Governors of the State Bar of Nevada was convened by President Gloria J. Sturman on June 18, 2003, at the Ritz-Carlton Hotel, New Orleans, Louisiana.

The following members were in attendance:

Gloria J. Sturman	...	President
N. Patrick Flanagan III	...	President-Elect
Ann Price McCarthy	...	Vice President
John H. Mowbray	...	Immediate Past President (by telephone)
Nancy L. Allf		
Bruce T. Beesley		
James W. Bradshaw		
Vincent A. Consul		
Kathleen J. England		
Dara J. Goldsmith		
Rew R. Goodenow		
Bridget Robb Peck		
John P. Schlegelmilch		
William C. Turner		
Steve Wolfson		

STATE BAR STAFF:

Allen W. Kimbrough
Rob Bare
Christopher Boadt
Marc Mersol
Audrey Bath
Damon K. Dias

GUESTS:

Hon. Deborah A. Agosti
Hon. James Hardesty (by telephone)

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1. CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by President Sturman at 10:15 a.m. She welcomed the members of the Board, who introduced themselves for the benefit of our guest and phone participants.

2. APPROVAL OF MINUTES OF PRIOR MEETING OF BOARD OF GOVERNORS

The Minutes of the May 14, 2003, meeting of the Board of Governors were approved with the following corrections:

- In paragraph 12, Steven Goldstein should be listed as an attorney member of Las Vegas Panel A, not a lay member.
- Mr. Wolfson requested that references in paragraph 22 to Norman Reed as a convicted felon be stricken, but a consensus of the Board disagreed.

3. REPORT ON ACTIONS AND RECOMMENDATIONS OF OPERATIONS COMMITTEE

The minutes and report of the Operations Committee's meeting of May 21, 2003, were reviewed and approved. In Executive Session, the President responded to questions regarding the potential settlement of the *Michel* case and Mr. Michel's bankruptcy.

4. REPORT OF DIRECTOR OF FINANCE AND INFORMATION SYSTEMS

Marc Mersol, Director of Finance and Information Systems reviewed with the Board the financial condition of the State Bar, the Nevada Bar Foundation and the Client Security Fund at April 30, 2003 and responded to questions regarding same. He noted that the financials reflected better than anticipated revenues in the Admissions and CLE departments.

Questions were also raised regarding the budgeting process in general and for the 2004 year in particular. Governors Goldsmith and Goodenow and the Executive Director were asked to review the situation and report back to the Board.

The Board by unanimous vote accepted the April 30 financials as presented.

5. REPORT ON 2003 ELECTION OF BOARD OF GOVERNORS

The Executive Director reported on the 2003 election of the Board of Governors and advised the Board that the new procedures appeared to have worked well considering the shortened time frame for conducting the election as a result of amendments to the Supreme Court Rules.

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6. CONSIDER MATTERS RELATED TO LEGISLATIVE ACTIVITY BY STATE BAR

The President led a discussion regarding the scope of permissible legislative activity by the State Bar in view of the *Keller* decision and urged the Board to review same and be prepared for the 2005 session of the Nevada Legislature.

Ann Price McCarthy was appointed as Chair of the Study Committee on Legislative Affairs, which will have the following Governors as members: Gloria Sturman, Dara Goldsmith, Rew Goodenow, John Schlegelmilch, and Bill Turner. The Executive Director and Bar Counsel will provide staff support and input to the Study Committee.

7. CONSIDER MATTERS RELATED TO LEGAL ASSISTANTS DIVISION

The Board next considered a request from the Legal Assistants Division to carry over \$10,423.38 from prior years to fund a meeting of the Division and a CLE program in September, 2003.

The Board denied the request for the carryover, but affirmed its support of the concept of the annual meeting/CLE event. Further information regarding the budget for the proposed event was requested from the Division.

The Board then authorized the Operations Committee to expend up to \$7500 for the Division, subject to the receipt and review of a budget for the annual meeting/CLE event.

8. CONSIDER MATTERS RELATED TO ACCESS TO JUSTICE COMMITTEE

The Board unanimously approved the recommendations of the Access to Justice Committee for the following statewide Access to Justice Awards, which will be presented at a luncheon on Thursday, October 9 in Las Vegas:

Sean Patterson	Reno	Solo Practitioner
Gonzalez, Howard & Reade	Las Vegas	Small Firm
Dickerson Dickerson Consul & Pocker	Las Vegas	Medium Firm
Marquis & Aurbach	Las Vegas	Large Firm
Trina Dahlin	Carson City	Public Lawyer
Elizabeth Gonzales	Las Vegas	Lawyer of the Year

9. CONSIDER MATTERS RELATED TO COMMITTEE ON MODEL PATTERN JURY INSTRUCTIONS

Chief Justice Deborah Agosti discussed with the Board her recommendation that the Bar undertake a revision of the current Model Pattern Jury Instructions - Civil (last done in 1986) and create criminal jury instructions as well. CLE Director Christopher Boadt briefed the Board on the work done to date by members of the State Bar CLE Committee and the exclusive publishing contract for the civil instructions that currently exists between Lexis-Nexis and the State Bar.

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The Board voted that a separate State Bar committee be formed and funded for the purpose of developing the jury instructions for Nevada. It was anticipated that the Committee would form two subcommittees, one for the civil instructions and one for the criminal. The staff was directed to advertise for potential members of the Committee from the following practice areas: personal injury (plaintiff), personal injury (defense), construction defect (plaintiff), construction defect (defense), commercial litigation, will contests, condemnation, and trial and appellate.

Composition of the subcommittees would include two judges and one law professor for the civil subcommittee and one judge and one law professor for the criminal subcommittee. The number of attorney members on each was left open.

Andrew Gordon was appointed as overall chair of the Model Pattern Jury Instructions Committee.

Several Board members questioned the contractual arrangement between the State Bar and Lexis-Nexis regarding publishing rights to the Instructions. Staff was asked to provide a copy of the Lexis-Nexis agreement to the Board for its review. Additionally, the Executive Director and applicable staff were asked to review all similar contracts extant and report to the Board at the August meeting.

10. RATIFY APPOINTMENT TO BANKRUPTCY SECTION EXECUTIVE BOARD

The Board, at the request of the executive board of the Bankruptcy Section, appointed Shelly Krohn as a member of that board. Ms. Goldsmith abstained from the consideration of and vote on this matter.

11. CONSIDER APPOINTMENTS TO NEVADA LAW FOUNDATION

The Board reviewed correspondence from Suzan Baucum, Executive Director of the Nevada Law Foundation, and thereafter made the following appointments to its Board of Trustees: Curtis Coulter, John T. Moran, Jr., and Carolyne Myers as attorney members and Clyde Billman as a lay member.

12. CONSIDER MATTERS RELATED TO SUPREME COURT COMMITTEE ON *PRO PER* LITIGANTS

Vice President McCarthy reported to the Board on the request by Justice A. William Maupin for the appointment of a northern Nevada attorney to the Supreme Court's committee dealing with *pro per* litigants. Valerie Cooney of Carson City was appointed by the Board to fill this position.

13. CONSIDER APPOINTMENTS TO NORTHERN AND SOUTHERN NEVADA DISCIPLINARY BOARDS

The Board appointed (with Mr. Consul abstaining) Aurora Maskall as an attorney alternate to the Southern Nevada Disciplinary Board (term ending June 2006) and reappointed the following attorney members for terms expiring August 2006: John Bertoldo, David Grauman, Kristina Holman, Charles Huff, Paul E. Larsen, and Stephen Smith. George Lyman was reappointed as a lay member with a term

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expiring August 2006.

With respect to the Northern Nevada Disciplinary Board, Patrick Fagan was reappointed to a one-year term as Chair (ending June 2004) and was reappointed as a member of the Disciplinary Board through August 2006. Steven Klearman was appointed as Vice-Chair through May 2004. The following attorney members were reappointed for terms expiring August 2006: Theodore Beutel, Patrick Kinney, Thomas Patton, and Charles Murphy. The following lay members were reappointed, also for terms expiring August 2006: Roy Arthurs, Susan Gaub, Donald Muckel, Paul Sanker, and John LaTourette (alternate).

The Board appointed Walter Cannon as an attorney alternate for the Southern Board.

Bar Counsel was requested to advertise more extensively for lay members, including in *Nevada Lawyer*.

14. CONSIDER MATTERS RELATED TO JURY IMPROVEMENTS COMMISSION

The Hon. James Hardesty, Chief Judge of the Second Judicial District Court, discussed with the Board an ADKT Petition filed by him and Chief Judge Gene Porter of the Eighth Judicial District regarding the implementation of the recommendations of the Jury Improvements Commission as adopted by the Supreme Court. Chief Justice Agosti expressed her objections to the Judges' approach and attempted to clarify what the Court's position was on the timing of the implementation process. The Board engaged in a lengthy discussion of this topic but took no action. Mr. Wolfson, as the spouse of a district court judge, took no part in any discussions or consideration of this matter.

15. CONSIDER APPOINTMENTS TO FEE DISPUTE ARBITRATION COMMITTEE

Luke Puschnig was appointed State Chair of the Fee Dispute Arbitration Committee for a one-year term to expire June 2004. The Board requested that outgoing State Chair Gerald Waite be thanked for his long service to the Committee and given an appropriate recognition on its behalf.

The Board further determined that Richard Scotti's term as Chair of Las Vegas Panel B had expired in April 2003 and that Mr. Scotti would not be reappointed. It was also requested that he receive appropriate recognition for his service.

John C. Hope, Jr. was reappointed as Chair of the Reno Panel for a term expiring August 2004.

The following attorneys were appointed as members of the Committee and to the Panels indicated for terms expiring June 2006:

Diana DeBeau-Hegedius

Las Vegas Panel A

Kirk D. Hendrick

Las Vegas Panel A

Joyce E. Ramos

Las Vegas Panel A

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Michael E. Rowe	Las Vegas Panel A
Daniel L. O'Brien	Las Vegas Panel B

The following persons were reappointed as indicated:

Harvey Hudgins (lay)	Las Vegas Panel A	August 2006
Troy E. Peyton	Las Vegas Panel A	September 2006
David L. Riddle	Las Vegas Panel A	October 2006
James G. Armstrong	Las Vegas Panel B	June 2006
Christopher Van Dyck	Carson City Panel	August 2006

16. CONSIDER MATTERS RELATED TO CLIENT SECURITY FUND COMMITTEE

Lauren R. Diefenbach and W. Chris Wicker were reappointed as members of the Client Security Fund Committee with terms to expire June 2006.

David C. Amesbury was reappointed as Chair of the Committee for a one-year term ending June 2004.

It was suggested that a Vice-Chair of the Committee be appointed due to the Committee's heavy work load.

17. REPORT OF BAR COUNSEL

In Executive Session, Bar Counsel Rob Bare reported to the Board on various pending litigation matters.

Mr. Bare reviewed with the Board the monthly report of discipline statistics and reported that \$38,000 had been recovered from disciplined attorneys which went to the Client Security Fund or directly to the aggrieved party.

Mr. Bare presented the revised recommendation of his office (with special thanks to Assistant Bar Counsel David Clark) that Caldwell Legal Services be approved as a prepaid legal services provider in Nevada. The Board concurred unanimously with Bar Counsel's recommendation.

The Board discussed whether a response should be made to the letter to the editor written by Andrew Myers and published in the June 15, 2003 issue of the *Las Vegas Review-Journal*. After receiving further information from Mr. Bare the Board determined that it would not respond to Mr. Myers comments.

18. CONSIDER MATTERS RELATED TO LAW RELATED EDUCATION

The Executive Director reported on recent activities in the area of law related education and provided the Board with a copy of the Supreme Court Order modifying SCR 191 to expressly provide that law related education activities comply with the aspirational pro bono

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goals of the Rule.

19. CONSIDER MATTERS RELATED TO LAWYER REFERRAL AND INFORMATION SERVICE

Damon K. Dias, new LRIS Coordinator, was introduced to the Board and provided a report on his department. He told the Board that the LRIS Committee is sound and functioning, that new software has been successfully installed, and that the Committee would be developing recommendations regarding a public service grant program. Several Board members had inquiries regarding the operation of the service and whether any increases in panel enrollment had occurred.

Mr. Consul suggested, and the Board concurred, that the Board's Task Force on LRIS be disbanded.

20. REPORT OF DIRECTOR OF ADMISSIONS

The Executive Director responded to questions raised regarding staffing for the department in view of the addition of the February bar examination. The Board also discussed whether changes would be made by the Court to the "cut score" for the MBE.

21. REPORT ON ETHICS 2000

Mr. Wolfson, Chair of the Ethics 2000 Committee, and Bar Counsel Rob Bare provided a status report to the Board on the Committee's work to date, and announced that the Committee was on track to file its recommendations with the Court in November or December, 2003.

The Board appointed Steve Rye, Assistant District Attorney in Lyon County, as an additional member of the Ethics 2000 Committee.

22. REPORT OF DIRECTOR OF CONTINUING LEGAL EDUCATION

Christopher Boadt, Director of Continuing Legal Education, reported to the Board on the activities of his department. He noted that seminars and publications were proceeding at or above plan. He advised the Board that Kristen Bennett had been promoted to the newly-created CLE Publications Assistant position and that work was proceeding on the *Appellate Practice Manual*.

He noted that attendance for the 2003 Annual Meeting in New Orleans was the lowest in ten or more years and briefed the Board on the events and activities for the week.

23. REPORT OF EXECUTIVE DIRECTOR

Executive Director Allen Kimbrough gave an oral report to the Board in supplementation of his written report.

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With respect to the proposed recarpeting of the Las Vegas office, the Board authorized the Executive Director to spend up to \$30,000 for such project and that the 2003 Budget would be adjusted by the contracted amount.

24. ELECTION OF OFFICERS

By acclamation, Ann Price McCarthy was chosen as President-Elect of the State Bar for 2003-2004 and Vince Consul was chosen as Vice President. Allen Kimbrough was unanimously elected as Executive Director (Secretary) and Treasurer.

25. REPORT OF PRESIDENT-ELECT

Mr. Flanagan expressed his appreciation to President Sturman for her service to the State Bar during 2002-2003.

He discussed plans for his year as President, including the study tour to Ireland October 14-24 and the 2004 Annual Meeting in San Diego, which will follow a new format and feature multiple speakers of national reputation.

The Board approved the dates and locations of meetings for the coming year and ratified Mr. Flanagan's appointments of Board committees and liaison assignments.

26. REPORT OF PRESIDENT

Ms. Sturman reported that the 75th Anniversary Galas were expected to generate approximately \$10,000 for the LRE program. She also reminded the Board that Justice Miriam Shearing would be nominated for the 2004 Margaret Brent Award (given by the ABA Commission on Women in the Profession) and that Judge Howard McKibben would be nominated for an award given by the American Inns of Court. She then advised the Board her appreciation for their collaboration and service and that tokens of her thanks would be delivered to hotel rooms of the Board members.

Mr. Flanagan thereafter presented Ms. Sturman with gifts from the Board, including an inscribed clock and gift certificates.

27. ADJOURNMENT

There being no further business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,

Gloria J. Sturman
President

Allen W. Kimbrough
Executive Director