

March 14, 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 March 14, 2003, at the State Bar Office in Las Vegas, Nevada.

The following members were in attendance:

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

STATE BAR STAFF:

Allen W. Kimbrough
Rob Bare
Christopher Boadt
Patrice Eichman
Marc Mersol
Audrey Bath

GUESTS:

Andrew Craner

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Marshal Willick

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1. **CALL TO ORDER AND INTRODUCTIONS**

President Sturman called the meeting to order at 9:05 a.m. and welcomed the members of the Board.

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

The Minutes of the regular meeting of the Board of Governors held on January 31, 2003, were approved unanimously.

3. **REPORT ON ACTIONS AND RECOMMENDATIONS OF OPERATIONS COMMITTEE**

The Board reviewed the report of actions and recommendations of the Operations Committee arising from its February 12, 2003, meeting. In Executive Session, the Board accepted the recommendations of the Operations Committee concerning the annual review of Bar Counsel Rob Bare and discussed those matters with Mr. Bare.

4. **REPORT OF CONTROLLER**

Controller Marc Mersol reviewed with the Board the financial condition of the State Bar at January 31, 2003, noting that there was a \$120,000 favorable balance for the first month of the year. He advised the Board that he anticipates a favorable cash balance of approximately \$1 million after 2003 cash needs are satisfied. Mr. Mersol also responded to questions regarding CLE expenditures for the period in question.

Mr. Mersol then reviewed the financial reports of the Clients' Security Fund. The Board requested that the Controller make an annual report to the Board regarding the CSF at each May meeting of the Board. This report would detail all claims paid and receipts.

The financial reports of the Nevada Bar Foundation were next reviewed by the Board, and Mr. Mersol responded to questions regarding same.

Thereafter, Mr. Mersol made a presentation to the Board regarding his redesign of the State Bar website. The Board applauded his work to date and endorsed proceeding with the final development of the site. It was anticipated that it would be placed in service during the month of May and "rolled out" at the Annual Meeting in June.

5. **CONSIDER MATTERS RELATED TO ETHICS 2000**

The President advised the Board that there was apparently a misunderstanding between the Committee on Ethics and Professional Responsibility and the Board regarding how revisions to Nevada's rules of professional conduct would be handled. Marshal Willick, Chair of the Committee, was present for and participated in the discussion. The Board reaffirmed its position (first taken at the December 7, 2002

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meeting) that the revision would be under the direction of the Board with assistance from members of the Committee and under the staff supervision of Bar Counsel Rob Bare.

The Board expressed its appreciation to the Committee for its work to date, but it was agreed that the desired cooperative effort would go forward hereafter with Mr. Wolfson as Chair. The Board appointed the other members of the Ethics 2000 Committee as follows: Bridget Robb Peck, James Bradshaw, Bruce Beesley, Marshal Willick, Jeffrey Stempel, and Dennis Kennedy. Bar Counsel Rob Bare will serve as Reporter and Staff Liaison to the group.

The Board authorized the President to appoint two sitting judges as additional members of the Ethics 2000 Committee with the understanding that an urban/rural mix be achieved if possible.

The Board further requested that a status report be given at each upcoming Board meeting on the work of the Ethics 2000 Committee.

6. CONSIDER COMPLAINT AGAINST CLE SPEAKER

The Board then considered complaints that had been leveled at Mr. Willick for remarks made at a State Bar-sponsored CLE seminar in 2002 which were offensive to certain members of the Italian-American legal community.

The Board discussed (with Mr. Willick present and responding) the events and the complaints and whether Mr. Willick should be removed "for cause" from his position as Chair of the Committee on Ethics and Professional Responsibility, as permitted by SCR 223.

Following a lengthy discussion in Executive Session, a motion to remove Mr. Willick as Chair pursuant to SCR 223 failed on a vote of 6-7. Mr. Curtas left the meeting prior to the vote.

The Board instructed the President to write a letter to the Editor of *La Voce* expressing the position of the State Bar. Upon motion made and seconded, the Board voted unanimously that the President should express to Mr. Willick in writing its position that his continued role as Chair of the Committee was conditioned on his recognition that his actions do reflect on his position as Chair and that incidents such as the one which led to the complaints must be avoided.

7. REPORT OF COMPENSATION AND PERSONNEL COMMITTEE

Mr. Wolfson and Mr. Turner left the meeting at this time.

Ms. England, Chair of the Compensation and Personnel Committee, reported on the work of the committee. The Board approved the utilization of an outside consultant to provide a few hours of assistance in the process of developing a new, comprehensive compensation scheme for the State Bar.

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Ms. England, the President, and the Executive Director responded to questions from the Board on this topic.

8. **REPORT OF SPECIALIZATION COMMITTEE**

The Board then reviewed the revised ADKT petition regarding specialization. There were some concerns raised regarding the \$250 fee to be assessed for registering a specialty with the State Bar.

On motion made and seconded, the Board (with two dissenting votes) approved the filing of the ADKT petition as drafted.

9. **REPORT ON MEMBER BENEFITS**

Ms. Peck reported that the Member Benefits Committee had no proposals to bring to the Board at this time but that she had been approached by a potential provider of disability insurance.

10. **REPORT ON 2003 ELECTION OF BOARD OF GOVERNORS**

The Board reviewed the memorandum prepared by the Executive Director regarding the handling of the 2003 Board elections. Mr. Kimbrough requested a clarification as to what selling the mailing lists "at cost" was intended to mean.

The Board approved a motion that the mailing lists would be sold to the candidates for a minimum of \$25 or the actual cost of the media (e.g., mailing labels), whichever is greater.

11. **REPORT OF YOUNG LAWYERS SECTION**

Andrew Craner, a member of the Executive Council of the Young Lawyers Section, presented an oral report to the Board regarding the activities of the YLS.

12. **CONSIDER MATTERS RELATED TO GAMING LAW SECTION**

The 2003 Budget of the Gaming Law Section was approved as presented by the section. It was suggested that the Section be approached with the idea of diverting a portion of the proceeds it receives from its annual golf tournament to the law related education activities of the State Bar.

13. **CONSIDER RATIFICATION OF APPOINTMENT TO PUBLIC LAWYERS SECTION EXECUTIVE COMMITTEE**

The Board ratified the appointment of Brett Kandt to the Executive Committee of the Public Lawyers Section.

14. **CONSIDER APPOINTMENT OF CHAIR AND VICE CHAIR OF TAX SECTION**

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The Board appointed Bret Whipple as Chair and Matthew Carling as Vice-Chair of the Tax Section.

15. **CONSIDER STATUS OF JUDICIAL CANON 4(C)**

At the request of the Hon. Barbara Buckley, Executive Director of Clark County Legal Services, the Board reviewed the status of requested revisions to Canon 4(C) of the Code of Judicial Conduct. Ms. Buckley requested that the Board file the required ADKT petition to achieve the revision, which the Board determined was not appropriate (although Mr. Bare was authorized to assist in its drafting).

The Board voted to refer this matter to the Access to Justice Committee for further study and action.

16. **REPORT ON 75TH ANNIVERSARY CELEBRATION (STATE BAR DIAMOND JUBILEE)**

The President gave a report on the ongoing celebration of the 75th Anniversary of the State Bar and expressed appreciation to those who are working on the gala events planned for May.

17. **REPORT ON 2003 MIDYEAR MEETING/BAR LEADERSHIP FORUM**

The Board discussed the recent Bar Leadership Forum held in Reno on February 22. The President observed that it appeared to foster better communication between the Board and the sections and committees and would lead to further involvement in the work of those entities.

The Board discussed, but took no action regarding, the potential for having an annual meeting of the State Bar separate from the annual convention.

The Board expressed its appreciation to Mr. Goodenow for facilitating the "town hall" portion of the Forum.

18. **REPORT ON 2003 ANNUAL MEETING**

The President reported on plans for the upcoming Annual Meeting of the State Bar in New Orleans on June 18-21 and encouraged Board members to register for the meeting as soon as possible. Ms. Sturman also explained to the Board the necessity of utilizing the pre-reserved room block at the host hotel in order to avoid penalties imposed by the hotel for failure to meet our target room nights.

19. **REPORT OF STATE BAR DELEGATE TO ABA HOUSE OF DELEGATES**

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The Board reviewed the written report of Margo Piscevich, State Bar Delegate to the ABA House of Delegates. The Board unanimously expressed its congratulations to Dean Morgan and the Boyd School of Law for having received full accreditation at the recent ABA Midyear Meeting in Seattle.

20. **CONSIDER REVISIONS TO SCR 98**

The Executive Director presented proposals for amending SCR 98 regarding categories of inactive membership, penalties for delinquent bar dues and reinstatement fees following fee suspension. Mr. Kimbrough explained to the Board the administrative issues to be faced under the present situation and the hard costs involved in carrying out the collection of delinquent fees, suspension and reinstatement.

The Board unanimously approved asking the Supreme Court to create a single category of Inactive membership in the State Bar with an annual fee of \$125 through amendment of SCR 98(9).

The Board unanimously approved asking the Supreme Court to increase the amount of penalties to be assessed for failure to pay bar dues on or before March 1 to \$100 for Active members and \$50 for Inactive members through amendment of SCR 98(11).

Staff was directed to prepare an ADKT petition to achieve these recommendations.

As permitted by SCR 98(12), the Board on a divided vote set the reinstatement penalty for fee suspended members at double the amount of delinquent fees.

21. **REPORT OF DIRECTOR OF ADMISSIONS**

Director of Admissions Patrice Eichman presented the proposed ADKT petition designed to establish the February bar examination, which the Board endorsed unanimously.

Ms. Eichman also gave a preliminary report on the number of applications received to date for the July 2000 examination.

22. **REPORT OF DIRECTOR OF CONTINUING LEGAL EDUCATION**

Christopher Boadt, CLE Director, presented an oral report in supplementation of his written materials. He discussed the CLE plans for the upcoming Family Law Conference in Ely, as well as the 2003 Annual Meeting.

The Board then discussed the recommendation of the Continuing Legal Education Committee that tuition for State Bar CLE programs be increased, but the majority of Board members felt that the amounts proposed by the Committee were too modest. After discussion, the Board voted to increase the tuition charged for State Bar-sponsored CLE events to \$229 for a full-day program and \$139 for a

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half-day program.

Mr. Boadt then discussed with the Board the present status of State Bar publications and the potential for increased revenues through additional publications in the future. The Board approved Mr. Boadt's request for the creation of a new staff position within the CLE Department whose responsibilities would focus on the creation of written materials for CLE programs and overseeing the writing and publication of manuals and treatises.

The subject of mandatory CLE training for arbitrators was discussed and it was determined that new training should be required every two years.

23. **REPORT OF BAR COUNSEL**

The Board approved the reappointment of the following persons to the Southern Nevada Disciplinary Board for terms expiring March 2006: Lynn Kirsch, Edward R. Miley, and Mark Wood. The Board approved the reappointment of Bruce Leslie to the Southern Nevada Disciplinary Board for a term expiring May 2006.

The Board approved the reappointment of the following persons to the Northern Nevada Disciplinary Board for terms expiring March 2006: Kenneth Caldwell, Donald Christensen, Valerie Cooney, P. Mark Gahn, and Louis Ling.

The following persons were appointed as alternate attorney members of the Northern Nevada Disciplinary Board: Thomas Erwin, Kelley-Anne Keiper, and Dan Reaser.

Bar Counsel Rob Bare reported to the Board on pending litigation matters and expressed his thanks to the outside counsel for the State Bar who have represented us *pro bono*.

24. **REPORT OF PRESIDENT-ELECT**

President-Elect Flanagan having exited the meeting, the Executive Director reported briefly on plans for the October 2003 legal and cultural exchange trip to Ireland and the 2004 Annual Meeting.

26. **REPORT OF EXECUTIVE DIRECTOR**

Mr. Kimbrough discussed with the Board various matters in supplementation of his written report, including progress in connection with finding a permanent Reno office, security concerns at the Las Vegas office.

He then introduced Marcia Stribling, LRE Coordinator, to the Board and Ms. Stribling made comments and responded to questions concerning the ongoing LRE programs and events.

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27. **REPORT OF PRESIDENT**

Ms. Sturman reminded the Board that the 75th Anniversary Galas would be held on May 3 (Reno) and May 9 (Las Vegas) and encouraged all Board members and their firms to support and attend these events.

She also sought and received the Board's approval to submit the name of Judge Howard McKibben for an American Inns of Court award in 2004 and the name of Justice Miriam Shearing for an ABA-sponsored Margaret Brent Award (the deadline for which is December 2003).

28. **INFORMATIONAL ITEMS**

Ms. Alf reported that the State Bar would be paid in full from the Michael Schaefer bankruptcy and the Board expressed its thanks for her donated services.

Bruce Beesley discussed UCITA and the "fair use doctrine" but the Board took no action on same.

29. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Gloria J. Sturman
President

Allen W. Kimbrough
Executive Director