



**MINUTES OF THE MEETING
OF THE BOARD OF GOVERNORS
State Bar of Nevada, Las Vegas, NV
October 21, 2009**

A regular meeting of the Board of Governors of the State Bar of Nevada was convened on October 21, 2009 at 9:00 a.m.

The following members were in attendance:

Kathleen J. England, President
Cam Ferenbach, President Elect
Connie Akridge, Vice President
Bruce Beesley, Immediate Past President
James Bradshaw
Amber Candelaria
Larry Digesti
Frank Flaherty
Elana Graham
Bruce Hahn
Jenny Hubach
Gregg Kamer
Alan Lefebvre
Bruce Shapiro
Mason Simons
John White

State Bar Staff Present:

Rob Bare
David Clark
Kimberly Farmer
Emily Ihrke
Jenny Smith
Marc Mersol
Gale Skala
Kristina Marzec

Guests:

Ryan Works
Bob Cerceo
Jerry Tao
Barbara Buckley
Dara Goldsmith
Sugar Vogel
Ana Marie Johnson
Valerie Cooney
Paul Elcano
Dan Polsenberg

1. CALL TO ORDER

The meeting was called to order by President Kathleen J. England at 9:00 a.m. and a quorum was present.

2. CONSENT ITEMS

Approval of Minutes

It was moved, seconded and carried to approve the amended minutes of August 19, 2009 and August 31, 2009.

Finance Report

Marc Mersol gave a synopsis of the points of interest concerning the financial report of the State Bar of Nevada. The Board asked that the formula for the Lawyer Referral Service designated funds description be reworded to clarify how the formula for designated funds is calculated. Marc Mersol will work with Cam Ferenbach on this item. It was moved, seconded and carried to approve the financial report.

Admissions Report

The LaJolla Beach and Tennis Club contract for the regrade meeting was presented to the Board of Governors for approval. The Board had concerns over the room rates in this agreement and asked the admissions department to go back to try to renegotiate better terms.

It was moved, seconded and carried to approve the reappointments of the following attorneys to the Board of Bar Examiners for a three year term commencing November 1, 2009.

Judge Alvin Kacin
Robert Salyer

It was moved, seconded and approved to reappoint Chair Michael Rowe to the Character and Fitness committee as Chair beginning November 1, 2009 for a three year term.

It was moved, seconded and approved to reappoint the following attorneys to the Functional Equivalency Committee for a three year term commencing November 1, 2009.

Pamela Lawson
Gloria Sturman
Paul Lychuk

Publications Report

It was moved, seconded and carried to approve the reappointment of David Neidert to the Publications Committee for a three year term commencing November 1, 2009.

It was moved, seconded and approved to appoint Gregory Shannon for a term to begin November 1, 2009 and expiring June 30, 2012 to the Nevada Lawyer Editorial Board.

Client Security Fund Report, Fee Dispute Arbitration Committee

It was moved, seconded and approved to appoint the following volunteers to the Client Security Fund Committee for a three year term commencing November 1, 2009.

Ross Goodman
Nathalie Gottschalk
Charles K. Hauser

It was moved, seconded and approved to appoint John Shook as Chair of the Client Security Fund Committee for a one year term commencing November 1, 2009.

It was moved, seconded and approved to appoint Lauren Diefenbach as Vice Chair of the Client Security Fund Committee for a one year term commencing November 1, 2009.

It was moved, seconded and approved to appoint the following volunteers to the Fee Dispute Arbitration Committee for a three year term commencing November 1, 2009.

Neil J. Beller	Las Vegas Panel C
Dustin Dingman	Las Vegas Panel C
John Dean Harper	Las Vegas Panel C
John T. Kelleher	Las Vegas Panel C
Thaddeus J. Yurek, III	Las Vegas Panel C (mediations only)

It was moved, seconded and approved to reappoint David L. Riddle to the Fee Dispute Arbitration Committee for a three year term commencing November 1, 2009.

DISCUSSION / ACTION ITEMS

3. CONTINUING LEGAL EDUCATION REPORTS

Emily Ihrke gave an overview of the status of the continuing legal education department. The main focus of the department is shifting to a mix of live seminars to alternative delivery methods, enabling greater accessibility to the rural areas as well as providing all members with on-demand, portable access to CLE.

Jenny Hubach, as the Board liaison for the Board of CLE, reported on the status of the Board of CLE making the proposed rule changes regarding penalties and other matters for those who are CLE deficient

4. FAMILY LAW SECTION REPORT

Bob Cerceo, vice chair of the section gave a synopsis on the Family Law Section activities.

Specialization Requests – The section asks that the state bar publicize names of members who are presently holding specializations by placing them on a section of the State Bar website; reduce the annual renewal fee for specialists from \$250 to \$100 yearly; and issue a certificate to the specialists. The Board formed a workgroup to explore these suggestions (Cam Ferenbach, Mason Simons and Bruce Shapiro).

Family Law Practice Manual -- The section requests that all revenue for the *Family Law Practice Manual* ongoing should be given to the Family Law Section. The Board asked that the policy for state bar publications development and revenues/expenses be reviewed by the Publications Committee -- not only for the *Family Law Practice Manual* but also for other publications that the state bar produces and sells to members. Alan Lefebvre volunteered to participate in the Publications Committee meeting on November 6th to discuss this matter.

Amicus Briefs -- The Family Law Section is asking the state bar leadership to discuss with the Supreme Court their desire to have more time allotted when being invited to submit an amicus brief on a matter. Kathleen England will discuss this matter with the Chief Justice.

5. REPORT OF THE YOUNG LAWYERS SECTION

Ryan Works gave a synopsis of the activities of the Young Lawyer Section. Mr. Works highlighted the positive response of the section's Facebook page.

6. REPORT OF EXECUTIVE DIRECTOR

Kimberly Farmer gave an overview of her written report. It was moved, seconded and carried to administratively suspend the following members due to non compliance of rules, SCR 78.5, NRS 7.034 and 425.520 and to fine these members pursuant to SCR 79 and RPC 6.1.

Jill Lorenzen
Kristy Montee
Gregory McKenna
Timothy Sears

7. REPORT OF PRESIDENT

Kathleen England gave an overview of her written report. The following workgroup/section assignments were made.

- Alan Lefebvre as a member of the conflict of interest policy workgroup.
- Larry Digesti and Bruce Hahn will work on a demographics survey workgroup.
- Gregg Kamer will be the Board liaison to the Energy Law Section of the state bar.
- Gregg Kamer will chair a technology workgroup.

Jim Bradshaw gave a synopsis of the FTC Red Flags Rule. It was moved, seconded and approved to adopt the following resolution and follow up this motion with a letter stating the position of the state bar to Nevada's Congressional delegation.

Resolved that the State Bar of Nevada urges the Federal Trade Commission and Congress to clarify that the Commission's Red Flags Rule imposing requirements on creditors relating to identity theft is not applicable to lawyers while they are providing legal services to clients.

8. NLF STATUS REPORT

Kathleen England reported on the status of the Nevada Law Foundation. There have been several meetings between the NLF Board of Trustees and the subcommittee of the Board of Governors. Ms. England reported that the NLF Board of Trustees accepted the resignation of the NLF executive director and is currently seeking proposals from organizations to manage the IOLTA program.

9. ACCESS TO JUSTICE COMMISSION

The Board discussed proposed changes to SCR 217 *creation and maintenance of interest bearing trust accounts* as proposed by the Access to Justice Commission. After discussion, it was moved, seconded and carried to approve the proposed changes to SCR 217 as noted below:

- Establishment of minimum standards for interest on IOLTA accounts and directs lawyers to place trust accounts in only the banks offering such interest rates;
- The automatic waiver of the minimum standards in the event a member doesn't maintain an office within 20 miles of a participating bank;
- All fees are prohibited under the proposed language.

The Board asks the Access to Justice Commission to make language changes to the proposed rule change regarding the reporting of IOLTA funds as noted below. Gregg Kamer and Cam Ferenbach will provide suggested language to the Access to Justice Commission on these revisions to the proposed rule.

- That that the designated foundation for the IOLTA program be responsible for tracking the compliance of members;
- That the effective dates for member reporting shall be the 2010 calendar year, reporting in 2011;
- That the language specifies that the attorneys can rely on the designated foundation to review bank's compliance with the rule. This provides the attorney a safe harbor as long as the attorney

places the trust account with the bank is listed on the compliant bank list.

10. PRO BONO WEEK / PRESENTATIONS FROM LEGAL SERVICE PROVIDERS

Barbara Buckley gave an overview of the activities of the scheduled October 26-30, 2009 pro bono week.

The following legal service providers of Nevada provided a synopsis of their services:

Legal Aid Center of Southern Nevada, Barbara Buckley
Volunteer Attorneys of Rural Nevadans, Valerie Cooney
Nevada Legal Services, Anna Marie Johnson
Senior Citizen Law Project in Las Vegas, Sugar Vogel
Washoe County Legal Services, Paul Elcano

11. REPORT OF DEPUTY BAR COUNSEL/GENERAL COUNSEL

David Clark gave an overview of his written report highlighting the draft of the annual report on lawyer advertising.

It was moved, seconded and approved to reappoint the following members for a two year term to the Southern Lawyer Advertising committee commencing November 1, 2009.

Joice Bass
Bruce Flammey
Daniel Ivie
Dirk Ravenholt
Eduardo San Miguel
Clark Seegmiller

It was moved, seconded and approved to reappoint the following members for a two year term to the Northern Lawyer Advertising committee commencing November 1, 2009.

John Calvery (New Chair)
Walter Fey
Steven Klearman
Douglas Smith

It was moved, seconded and approved to approve the following appointments to the Southern Lawyer Advertising committee for a two year term commencing November 1, 2009.

Patrick Kang
James E, Harper
Marek Bute
Brice Crafton
Daniel Reed
James Harper

12. REPORT OF BAR COUNSEL

Rob Bare gave highlights on the discipline status report. Mr. Bare submitted a written report to the Board on the present procedure of filing grievances followed by the office of bar counsel.

Kathleen England will be appointing a workgroup to conduct research on discipline trends.

It was moved, seconded and approved to reappoint Ronald Moonin for an additional three year term to the Southern Disciplinary Board commencing November 1, 2009.

It was moved, seconded and approved to reappoint Frank Gallagher, Thomas Kelly and Rick Lund for an additional three year term to the Northern Disciplinary Board commencing November 1, 2009.

13. BOG APPOINTMENT TO SEX OFFENDER REGISTRATION ADVISORY COMMITTEE

It was moved, seconded and approved to appoint Susan Roske as the public defender representative to the Advisory Committee to Study Laws Concerning Sex Offender Registration.

ADJOURNMENT

There being no new business before the Board, the meeting was adjourned at 3:35 p.m.