

**May 12, 2004**

**MINUTES OF THE MEETING OF THE BOARD OF GOVERNORS (REVISED)**

A regular meeting of the Board of Governors of the State Bar of Nevada was convened on May 12, 2004, in the Washoe Room of Harrah's Hotel and Casino in Reno.

The following members were in attendance:

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

The following members were absent:

Gloria J. Sturman	...	Immediate Past President	
Kathleen J. England			
Steven B. Wolfson			

STATE BAR STAFF PRESENT:

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Allen W. Kimbrough

Rob Bare

Patrice Eichman

Marc Mersol

Audrey Bath

GUESTS PRESENT:

Darcy Casey

Sandra Mae Pickens David Grundy

Valerie Cooney

Odessa Ramirez

Robert Reis

Marilyn Marsh

Richard Trachok

Jasmine Mehta

Joy Vidana

Shawn Pearson

Sally Zola

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**1. CALL TO ORDER AND INTRODUCTIONS**

The meeting was called to order by the President at 9:10 a.m. and a quorum was declared. The Board was reminded to use the reimbursement forms provided in the agenda book for this meeting.

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

The Minutes of the March 5, 2004 meeting of the Board were approved following a correction to section 20 thereof regarding the name of Audrey Damonte.

Corrections were also made to section 3 of the April 14, 2004 Minutes regarding Mr. Schlegelmilch's recommendation to the Board regarding Volunteer Attorneys for Rural Nevada with a request that the corrected minutes be provided to the Board at its next meeting.

Typographical corrections were made to the Minutes of the April 22, 2004 Minutes, and the Minutes were approved as corrected.

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

The Board approved the actions of the Operations Committee taken at its April 21, 2004 meeting.

**4. REPORT OF DIRECTOR OF FINANCE AND INFORMATION SYSTEMS**

Marc Mersol presented the financial condition of the State Bar at March 31, 2004, and responded to questions regarding same. Mr. Mersol stated that approximately \$1.2 million in available cash was on hand as of that date.

The Board was advised that the 2003 Audit was underway and that the audited financial statements and comments would be presented at the June 16 meeting.

**5. CONSIDER MATTERS RELATED TO BOARD OF BAR EXAMINERS**

Richard Trachok, Chair of the Board of Bar Examiners (BBX), gave a report to the Board regarding the current operations of the BBX in general and the results of the February 2004 bar examination in particular.

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Based on the recommendations of the BBX, the Board appointed Mark Wenzel to the unexpired term of Scott Glogovac to expire October 2005. The Board then appointed Al Kacin to a full term on the BBX with an expiration date to be determined by subsequent Supreme Court order.

**6. REPORT OF DIRECTOR OF ADMISSIONS**

Patrice Eichman, Director of Admissions, made a report to the Board regarding the 2004 bar examinations and responded to questions regarding same.

The Executive Director explained to the Board that the Supreme Court Order provided in the agenda materials is deemed by the Court to be confidential. All copies were returned to State Bar staff for shredding.

**7. REPORT OF ETHICS 2000 COMMITTEE**

Bar Counsel Rob Bare reported that the final version of the ADKT Petition regarding changes to Nevada's rules of professional conduct had been filed with the Court and is undergoing review by the Court's staff. The Court will conduct a public hearing on the amendments, and the Committee will participate in same.

**8. REPORT OF ABA DELEGATE**

Mr. Goodenow moved that Margo Piscevich be reappointed as the State Bar Delegate to the ABA House of Delegates, but withdrew his motion after being advised that the matter was set for consideration at the June 16 meeting.

The Board reviewed Ms. Piscevich's report on the 2004 Midyear Meeting of the ABA.

**9. REPORT OF YOUNG LAWYERS SECTION**

Shawn Pearson, Chair of the Young Lawyers Section, presented a report on the recent activities of the Section, including its efforts to reach out to rural attorneys and communities and increased involvement in the work of the ABA Young Lawyers Division. He also advised the Board that 8 of the 9 members of the YLS Executive Committee would attend the State Bar Annual Meeting in Coronado.

**10. CONSIDER MATTERS RELATED TO BUSINESS LAW SECTION**

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The Board unanimously ratified the following members as officers of the Section:

Robert C. Kim, Chair

Ellen J. Schulhofer, Vice-Chair

Elizabeth Savage Nelson, Treasurer

**11. CONSIDER FORMATION OF STATE BAR HISTORY COMMITTEE**

The Board approved the creation of a State Bar History Committee and appointed The Hon. Robert Johnston as Chair of the Committee and as State Bar Historian.

**12. CONSIDER MATTERS RELATED TO LEGAL ASSISTANTS DIVISION**

Following introductory remarks by the President regarding the background of this matter, Marilyn Marsh, Chair of the Division's Certification Committee, presented the Division's request for the creation of a "Nevada Certified Paralegal." Members of the Board questioned whether or not the Board had the authority to create such a certification or whether such was the exclusive province of the Supreme Court. Bar Counsel expressed his opinion that such would indeed fall under the jurisdiction of the Court and his concerns regarding the due process that would have to be undertaken by the Board should a certification need to be revoked.

Upon motion made and seconded, the Board agreed to postpone consideration of this matter to June 16 and refer it to a special committee on the Board under the direction of Mr. Beesley. Ms. Goldsmith was authorized to contact Chief Justice Shearing to seek her comments on this issue.

**13. CONSIDER MATTERS RELATED TO ATTORNEYS LIABILITY PROTECTION SOCIETY**

Robert Reis, President and Chief Operating Officer of Attorneys Liability Protection Society (ALPS) and ALPS board member David Grundy were introduced to the Board by the President. They gave a presentation regarding the soaring cost of professional liability insurance for Nevada attorneys (particularly in Clark County) as a result of exceptionally large losses over the past several years. They discussed with the Board some possible solutions to these issues, including the potential formation of a captive insurer for this state. Mr. Reis announced that Mr. Grundy was forming a task force to look into these matters, but assured the members of the Board that ALPS was not leaving the state (in which it was originally incorporated).

**14. CONSIDER MATTERS RELATED TO LAWYER REFERRAL AND INFORMATION SERVICE**

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Ms. Goldsmith, Board Liaison to the LRIS Committee, presented the Board with the Committee's recommended grants for 2004 from its Public Service Grants Program. The Board approved these recommendations unanimously.

It was suggested that the grant checks be presented at future luncheons of the Clark County and Washoe County bars.

**14. CONSIDER MATTERS RELATED TO VOLUNTEER ATTORNEYS FOR RURAL NEVADA**

Mr. Goodenow reported that he had mediated a compromise between Nevada Legal Services and Volunteer Attorneys for Rural Nevada (VARN) regarding various disputed issues. Therefore, the only matter still remaining for Board consideration would be the request for funding in the amount of \$40,000 (\$10,000 having been given in April).

Valerie Cooney, the attorney in charge of VARN's domestic violence project, made the principal presentation to the Board regarding the need for the emergency funding. Members of the Board and State Bar staff raised several questions of Ms. Cooney, Executive Director Odessa Ramirez, and other representatives regarding the financial data provided by VARN and its future funding possibilities. A motion was made and seconded that VARN be given the requested \$40,000 from the Restricted Fund. A subsequent motion to postpone consideration of the funding until the June 16 meeting of the Board and to refer the request to the LRIS Committee for its comments, which passed on a divided vote.

**15. CONSIDER MATTERS RELATED TO STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY**

At the request of the Committee's Chair, the Board removed Susan Quig-Terry as a member of the Committee. The Board appointed Valerie Cooney as a member of the Committee with a term expiring May 2007.

**16. CONSIDER MATTERS RELATED TO ACCESS TO JUSTICE COMMITTEE**

Mr. Goodenow presented the draft ADKT Petition seeking a change in SCR 191 to permit the proposed Access to Justice Section to replace the Committee as specified in the Rule. The Board approved the Petition and authorized its filing with the Court.

**17. CONSIDER REQUESTS FROM EIGHTH JUDICIAL DISTRICT PRO BONO FOUNDATION**

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Mr. Consul presented the request from Barbara Buckley, on behalf of the Eighth Judicial District Pro Bono Foundation, that the State Bar staff undertake a tabulation of the results of the new mandatory pro bono reporting form. The Executive Director elaborated on his written comments regarding the inability to take on such a task with existing staff and the costs of hiring temporary help to do so. Upon motion made and seconded, the Board determined (on a divided vote) that the tabulations should be done by the members of the Access to Justice Committee (soon to be Section) and other volunteers.

With respect to the letter proposed to be sent to admittees from the February bar examination, the President will coordinate same with the Chief Justice.

**18. CONSIDER MATTERS RELATED TO FEE DISPUTE ARBITRATION COMMITTEE**

The Board made the following appointments of attorney members to the indicated panels of the Fee Dispute Arbitration Committee:

Pamela Lawson	Las Vegas Panel A
Nancy Lemcke	Las Vegas Panel C
Puoy K. Prensirut	Las Vegas Panel C

**19. CONSIDER MATTERS RELATED TO CLIENTS SECURITY FUND COMMITTEE**

Committee Member Gene Leverty advised the Board of the Committee's desire to employ outside counsel for recovery efforts lodged at members against whom claims have been made on the Fund. The Board unanimously approved this approach, and directed the Committee to seek bids from collection attorneys to be recommended to the Board of Governors for employment.

The Board agreed that the advertisements for these bids would be run free of charge in *Nevada Lawyer*.

The Board approved the revised Rules of Procedure for the Committee.

**20. CONSIDER APPOINTMENTS TO NORTHERN AND SOUTHERN NEVADA DISCIPLINARY BOARDS**

The Board reappointed Patrick Fagan as Chair of the Northern Nevada Board through June 2005. The Board appointed Paul Matteoni as Vice-Chair of the Northern Board (Ms. Peck and Mr. Beesley abstaining) to June 1, 2005. The Board appointed Laurence B. Irwin to the Northern Board for a term expiring May 31, 2007.

**21. CONSIDER MATTERS RELATED TO NORTHERN NEVADA BAR CENTER**

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The Executive Director provided the Board with a status report on the interior construction of the new Northern Nevada Bar Center, and presented the bids of four general contractors: Gough Development, Pinecrest Development, Frank Lepori Construction, and Q&D Construction. Lewis Zaumeyer of ArchideA, architect for the project, was present and responded to questions regarding the bids and the potential contractors. By a vote of 10-3, the Board approved Gough Development, who submitted the lowest bid, as the general contractor for the project, subject to the President's verification that it had no pending complaints before the Nevada Contractors Board. Should any complaints be found, the next lowest bidder would be employed.

By a divided vote, the Board delegated to the Operations Committee the approval of the final agreement with Gough and the approval of the other expenditures related to the project such as furnishings, audio-visual installations, and telephone system.

**22. CONSIDER RESIGNATION OF MEMBERS**

The President reported to the Board that only 10 of the 15 persons who have sought resignation during the current bar year stated that the increase in Inactive Member dues was the reason.

The Board approved the resignations of Leigh Anne Chavez, Matthew H. Feiertag, and Donald Ellis Gladstone.

The Board denied the request of member Bruce Barrett for a list of all inactive members, as such would violate the Board-adopted list sales policy. The President will so advise Mr. Barrett and provide him with a copy of the policy.

**23. CONSIDER APPOINTMENT OF TEMPORARY MEMBER TO COMMISSION ON JUDICIAL SELECTION**

The Board appointed Sean McGowan, City Attorney of North Las Vegas, as the temporary member of the Commission in the search for a replacement for Chief Judge Michael Douglas following Judge Douglas's appointment to the Supreme Court.

**24. CONSIDER MATTERS RELATED TO 2004 ANNUAL MEETING**

The Executive Director made comments in supplementation of the written materials furnished to the Board and encouraged all members who had not registered to do so as soon as possible. He and the President reported that significant contributions had been made that would help defray the cost of the convention.



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**25. REPORT OF BAR COUNSEL**

In Executive Session the Board discussed pending and potential litigation against the State Bar.

Outside Executive Session, the Board reviewed the statistical information furnished by Bar Counsel.

**26. REPORT OF EXECUTIVE DIRECTOR**

The Executive Director made comments in supplementation of his written report to the Board and responded to questions regarding same.

**28. REPORT OF PRESIDENT-ELECT**

President-Elect McCarthy briefed the Board regarding plans for her bar year, including the 2005 Annual Meeting to be held in Santa Fe.

**29. DISCUSSION OF PERSONNEL ISSUES**

In Executive Session the Board addressed certain issues regarding personnel of the State Bar. The Executive Director was directed to provide certain information to the Board at the June 16 meeting, at which time the subject would be further discussed.

**30. REPORT OF PRESIDENT**

President Flanagan discussed with the Board the formation of the Supreme Court Commission on Lawyer Advertising, which the Court wants handled in a manner similar to the Multijurisdictional Practice Commission. The Board will recommend the membership on the Advertising Commission to the Court for appointment.

**31. CONSIDER NEW BUSINESS**

A motion was made to reduce member dues by \$100 per member, subsequently amended to \$50 per member. Director of Finance Marc Mersol advised the Board that to do so would immediately place the State Bar in a negative fiscal position.

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A motion to postpone consideration of the motion to the August 2005 meeting was defeated by a divided vote. A motion to refer this matter to the Budget Committee for its consideration and a subsequent report to the Board was approved on a divided vote.

**32. INFORMATIONAL ITEMS**

The Executive Director reviewed with the Board the various items for provided for information only.

**33. ADJOURNMENT**

There being no further business, the meeting was adjourned at 5:05 p.m.

Respectfully submitted,

N. Patrick Flanagan  
President

Allen W. Kimbrough  
Executive Director