

BYLAWS OF
THE FOUNDATION OF THE STATE BAR OF CALIFORNIA
A California Nonprofit Public Benefit Corporation

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ARTICLE I
Name of Corporation, Formation and Location of Offices

Section 1.01. Name of Corporation. The name of this corporation shall be The Foundation of the State Bar of California and shall be referred to herein as the "Foundation."

Section 1.02. Corporation Is Nonprofit. The Foundation has been formed pursuant to the California Nonprofit Corporation Law as a public benefit corporation.

Section 1.03. Principal Office. The principal office for the transaction of the activities and affairs of the Foundation is located at 555 Franklin Street, San Francisco, California. The Board of Directors may change the principal office from one location to another so long as the change of location is noted by the secretary on these Bylaws opposite this section. In the alternative, this section may be amended to state the new location of the principal office.

Section 1.04. Other Offices. The Board of Directors may at any time establish branch or subordinate offices at any place or places where the Foundation is qualified to conduct its activities.

ARTICLE II
Purpose and Limitations

Section 2.01. General Purpose. The Foundation is organized and operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986.

Section 2.02. Specific Purpose. The specific purposes of the Foundation shall be as set forth in the Foundation's Articles of Incorporation.

Section 2.03. Limitations. Notwithstanding any other provision of these Bylaws, the Foundation shall not carry on any activity not permitted to be carried on by a corporation exempt from federal income tax under section 501(c)(3) of the Internal

Revenue Code of 1986, or by a corporation contributions to which are deductible under section 107(c)(2) of the Internal Revenue Code of 1986.

ARTICLE III Members

Section 3.01. Absence of Statutory Members. The Foundation shall have no members, as the term "members" is defined in section 5056 of the California Nonprofit Corporation Law ("statutory members"). Accordingly, unless otherwise provided herein or in the California Nonprofit Public Benefit Corporation Law, any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Foundation's Board of Directors. All rights which would otherwise vest in the members under the California Nonprofit Corporation Law or otherwise by law shall vest in the Board of Directors.

Section 3.02. Associates. Nothing in this Article III shall be construed as limiting the right of the Foundation to refer to persons who participate in or provide support for any activities or programs of the Foundation, as "members" even though such persons are not statutory members and have no rights of statutory members. Such persons shall be deemed to be "associated persons" with respect to the Foundation, as that term is defined in section 5332 of the California Nonprofit Corporation Law and no reference to any associated person as a "member" shall give that person any rights of membership as defined for statutory members. Without limiting the foregoing, any persons who are appointed as Emeritus Members (Section 3.03, below), or Advisory Members (Section 3.04, below) of the Foundation shall be associated persons.

Section 3.03. Emeritus Members.

(a) **Authority to Appoint; Qualifications.** The Board of Directors may designate one or more persons as Emeritus Members of the Foundation so long as such persons meet the following qualifications: (i) the proposed appointee previously served a minimum of two terms on the Board of Directors; and (ii) during his or her tenure on the Board the proposed appointee demonstrated leadership and commitment to his or her work as an active Board member. Before action is taken by the Board to appoint an Emeritus Member, the candidate must be nominated for appointment by the Nominating Committee.

(b) **Duration of Appointment.** Once a person is appointed as an Emeritus Member his or her status as such shall be a lifetime appointment, subject to the Emeritus Member's right to resign at any time.

(c) Rights and Privileges of Emeritus Members. Emeritus Members may attend all meetings of the Foundation's Board of Directors, other than executive session meetings, but shall have no power to vote on matters coming before the Board for action. Emeritus Members shall receive notice of all Board meetings and all meeting materials distributed to Board Members, other than materials relating to confidential matters or executive sessions. Emeritus Members shall not be subject to any meeting attendance requirements applicable to members of the Board.

(d) Expense Reimbursement. Reimbursement of travel and other reasonable expenses incurred by Emeritus Members to attend Board meetings shall be considered on a case-by-case basis and shall require approval of the Foundation's Executive Committee.

Section 3.04. Advisory Members.

(a) Appointment and Qualifications. The Board of Directors may appoint persons as Advisory Members to the Board of Directors if it is determined that the candidate for appointment possesses a specific skill, expertise, or influence that the Board deems a significant benefit to the Board in discharging its duty to responsibly and effectively implement and pursue the mission of the Foundation. Before action is taken by the Board to appoint a person as an Advisory Member, the person's name shall be placed in nomination by the Nominating Committee.

(b) Duration of Appointment. Appointment as an Advisory Member shall be for a term of two years. There shall be no limitation, however, on the number of consecutive terms for which a person can serve the Foundation as an Advisory Member.

(c) Rights and Privileges of Advisory Members. Advisory Members may attend all meetings of the Board of Directors, other than executive session meetings, but shall have no right to vote on matters coming before the Board for action. Advisory Members shall receive notice of all Board meetings and all meeting materials distributed to Board Members other than materials relating to confidential matters or executive sessions. Advisory Members shall not be subject to any meeting attendance requirements applicable to members of the Board.

(d) Expense Reimbursement. Reimbursement of travel and other reasonable expenses incurred by Advisory Members to attend Board meetings shall be considered on a case-by-case basis and shall require approval of the Foundation's Executive Committee.

ARTICLE IV
Board of Directors

Section 4.01. General Corporate Powers. Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, and subject to the provisions and limitations of these Bylaws, the Foundation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors. The Board may delegate the management of the activities of the Foundation to any person or persons, or to committees (subject to the limitations imposed by Section 7.03, below), provided that notwithstanding any such delegation the activities and affairs of the Foundation shall continue to be managed and all corporate powers shall continue to be exercised under the ultimate direction and control of the Board.

Section 4.02. Authorized Number of Directors. The authorized number of directors of the Foundation shall be twenty-five (25) directors who shall be appointed or designated to office in accordance with Section 4.04, below. In addition, the person who is serving as the President of the State Bar of California shall be an *ex officio* director of the Foundation, with full voting powers.

Section 4.03. Qualifications of Directors.

(a) Qualifications, Generally. To be eligible to serve on the Board of Directors by either appointment or designation, a person must have shown an interest in, and be committed to, the purposes and goals of the Foundation.

(b) Restriction on Interested Persons Serving as Directors. It is the policy of the Foundation that no person serving as a director shall be an interested person as defined herein, and in no event no more than forty-nine percent (49) percent of the persons serving on the Board may be interested persons. An interested person is (i) any person currently being compensated by the Foundation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and (ii) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person. However, any violation of the provisions of this paragraph shall not affect the validity or enforceability of any transaction entered into by the Foundation.

Section 4.04 **Designation of Directors.** All of the directors of the Foundation shall be designated by the Board of Governors of the State Bar of California, a California public corporation created by the California Constitution and the State Bar Act as a government agency in the judicial branch of government to function as the administrative arm of the Supreme Court of California in the regulation of the practice of law (hereinafter, the "State Bar"); provided, however that at all times the then-serving President of the State Bar shall be an *ex-officio* director of the Foundation.

Section 4.05. **Term of Office.** Directors of the Foundation (other than *ex officio* directors) shall serve for terms of two years from January 1 through December 31 of the year next following their appointment, and thereafter until their successors have been duly appointed or designated.

In 1997, the Board of Directors implemented a system of staggered terms of office for all directors, other than *ex officio* directors, in order to promote continuity in the Foundation's management. As a result of this action, in two year cycles in even numbered calendar years there are vacancies in half of the seats on the Board and in two year cycles on odd numbered years there are vacancies in the other seats on the Board.

Vacancies created by the authorization of additional directorships shall be similarly allocated so that the number of directorships (including vacancies) whose terms expire on any December 31 shall be as nearly equal as possible to the terms of those (including vacancies) that will expire on December 31 of the year next following. The terms of office of the *ex officio* directors shall continue for so long as the director occupies the office giving rise to his or her status as an *ex officio* director.

Section 4.06. **Vacancies on the Board.**

(a) **Events Causing Vacancy.** A vacancy or vacancies on the Board shall exist on the occurrence of any of the following: (i) the death or resignation of any director; (ii) the removal of a director from office, with or without cause by the Board of Governors of the State Bar; or (iii) an increase in the authorized number of directors.

(b) **Resignation of Directors.** Except as provided below, any director may resign by giving written notice to the president or the secretary of the Foundation. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. Except on notice to the Attorney General of California, no director may resign if the Foundation would be left without any duly appointed or designated directors.

(c) Removal of Directors for Cause. Cause for the removal of a director shall exist under any of the following circumstances:

- (i) the director has been declared of unsound mind by a final order of court;
- (ii) the director has been convicted of a felony while in office or is discovered to have been previously convicted of a felony;
- (iii) the director has been found by a final order or judgment of any court to have breached any duty that the director has to the Foundation under Sections 5230 and following of the California Public Benefit Corporation Law (such as a breach of fiduciary duty or the commission of an act of self-dealing);
- (iv) the director fails to attend three consecutive regular meetings of the Board of Directors or fails to attend five regular meetings of the Board in any one calendar year and, in either instance, the absence is unexcused by the Board or the Executive Committee.

In the event that cause for removal is determined to exist with respect to any director who sits by appointment of the Board of Directors, that director may be removed from office by action of the Board of Directors; provided, however, that any removal pursuant to subparagraph (iv), above, shall only be effective upon ratification of the action by the Board of Governors of the State Bar.

(d) Filling Vacancies. When a vacancy occurs on the Board, the seat shall be filled by designation of a successor by the Board of Governors of the State Bar. Any successor thus appointed shall serve for the remaining term of the director who is being replaced.

(e) No Vacancy on Reduction of Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

Section 4.07. Compensation and Reimbursement. Directors, and members of committees of the Board of Directors, may receive such compensation, if any, for their services as directors or officers, or as committee members, and such reimbursement of expenses, as the Board may determine by resolution to be just and reasonable as to the Foundation at the time that the resolution is adopted.

ARTICLE VI
Duties and Powers of the Board of Directors

Section 6.01. Specific Powers. Without prejudice to the general powers of the Board of Directors set forth in section 4.01 above, the directors shall have the power to:

- (a) Exercise all powers vested in the Board under the laws of the State of California, so long as the powers so exercised are consistent with the purposes of the Foundation.
- (b) Select the organizations and programs which shall be the recipients of the charitable grants and scholarships of the Foundation, and to determine in the case of each such organization or program the amount of such charitable grant.
- (c) Appoint and remove all officers of the Foundation, any, and other Foundation employees; prescribe any powers and duties for such persons that are consistent with law, the Articles of Incorporation and these Bylaws; and fix their compensation.
- (d) Appoint such agents and employ such other employees, including attorneys and accountants, as it sees fit to assist in the operation of the Foundation, and to fix their duties and to establish their compensation.
- (e) Adopt and establish rules and regulations governing the affairs and activities of the Foundation.
- (f) Enforce all applicable provisions of these Bylaws.
- (g) Contract for and pay premiums for insurance and bonds (including indemnity bonds) which may be required from time to time by the Foundation.
- (h) Pay all taxes and charges incurred by or levied against the Foundation.
- (i) Delegate its duties and powers hereunder to the officers of the Foundation or to committees established by the Board, except as otherwise provided herein.

(j) Appoint such committees as it deems necessary from time to time in connection with the affairs of the Foundation in accordance with article VII hereof.

Section 6.02. Limitations on Powers.

(a) **Self-Dealing Transactions.** Notwithstanding the powers conferred on the Board pursuant to section 6.01, above and section 4.01, above, the Foundation shall not engage in any transaction which meets the definition of a "self-dealing transaction" as defined in California Corporations Code section 5233 unless the transaction has been approved by one of the means specified in section 5233(d).

(b) **Transactions Between Corporations Having Common Directorships.** Unless it is established that the contract or transaction is just and reasonable as to the Foundation at the time it is authorized, approved or ratified, the Foundation shall not enter into a contract or transaction with any other corporation, association or entity in which one or more of the Foundation's directors are directors unless the material facts as to the transaction and the director's common directorship are fully known or disclosed to the Board. The Board must approve, authorize or ratify any such contract or transaction in good faith and by a vote sufficient without counting the vote of the common director(s).

(c) **Loans to Directors or Officers.** The Foundation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer, unless the transaction is first approved by the California Attorney General. This provision shall not apply to any reasonable advance on account of expenses anticipated to be incurred in the performance of the director's or officer's official duties.

(d) **Standards for Investment.** Except as provided in California Corporations Code sections 5240(c) and 5241, in the investment, reinvestment, purchase, acquisition, exchange, sale and management of the Foundation's investments, the Board shall:

(i) Avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the Foundation's capital; and

(ii) Comply with additional standards, if any, imposed by the Articles of Incorporation, these Bylaws, any resolutions duly adopted by the Board, or the express terms of any instrument or agreement pursuant to which the invested assets were contributed to the Foundation.

Section 6.03. Duties of the Board of Directors.

(a) **Duty of Care, Generally.** Each director shall perform his or her duties, including duties that the director may possess as a member of any committee of the Board, in good faith, in a manner the director believes to be in the best interests of the Foundation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In performing his or her duties, each director shall be entitled to rely upon information, opinions, reports and statements, including financial statements and other financial data, prepared or presented to the Board by corporate officers, employees, legal counsel, accountants, committees of the Board and other competent professionals and consultants to the extent permitted by Corporations Code section 5321(b).

ARTICLE VII

The Executive and Other Committees of the Foundation

Section 7.01. The Executive Committee. The Foundation has established an Executive Committee comprised of (i) the officers of the Foundation, and (ii) the Executive Director and the immediate past President of the Foundation who shall serve on the Executive Committee as *ex officio* members and without any voting rights. The immediate past President's service on the Executive Committee shall not be dependent on that person simultaneously holding a position as a director of the Foundation.

Subject only to the limitations imposed by section 7.03, below, when the Board is not in session, the Executive Committee shall have the full power and authority of the Board of Directors, subject to the obligation to report to the Board of Directors, at the next succeeding regular or special meeting of the Board, any actions taken or decisions made by the Executive Committee on behalf of the Foundation.

Section 7.02 Other Committees. The Board of Directors may, by resolution establish other standing and ad hoc committees and such committees may include persons who are not directors; provided however, that if any committee includes committee members who are not Foundation directors, the committee shall not constitute a "committee of the Board", as that term is defined in section 5212 of the Public Benefit Corporation Law. The Board may delegate management of the Foundation's activities to any committee to the same extent that those powers could be delegated to agents, employees or independent contractors generally, and subject to the ultimate direction of

the Board. In all other respects, committees (other than the Executive Committee) shall be limited to making recommendations and reports to the Executive Committee or the Board regarding matters that are within their mission as defined by the Board in the resolution establishing the advisory committee.

Section 7.03. Limitations on Authority of Committees. No committee appointed by the Board of Directors shall:

(a) Take any final action on any matter that, under the California Nonprofit Public Benefit Corporation Law, also requires approval of the members or approval of a majority of all members;

(b) Fill vacancies on the Board or on any committee that has the authority of the Board;

(c) Fix compensation of the directors for serving on the Board or on any committee;

(d) Amend or repeal Bylaws or adopt new Bylaws;

(e) Amend or repeal any resolution of the Board that by its express terms is not so amendable or repealable; of

(f) Approve any contract or transaction to which the Foundation is a party and in which one or more of its directors has a material financial interest, unless the conditions set forth in paragraph (1), (2) or (3) of section 5233(d) of the California Corporations Code, or section 5233(e) of the California Corporations Code, are met.

Section 7.04 Meetings and Actions of Committees. Meetings and actions of all committees appointed by the Board shall be governed by, held, noticed and taken in accordance with the provisions of these Bylaws concerning meetings and other Board actions. The Board may adopt additional rules for the governance of any committee it establishes, provided such rules are consistent with these Bylaws or, in the absence of rules adopted by the Board, any committee may adopt such rules for the committee's governance.

ARTICLE VIII Officers

Section 8.01. Officers of the Foundation. The officers of the Foundation shall be a President, a Secretary, a Treasurer and an Executive Director. The Foundation may also have, at the discretion of the Board of Directors, one or more vice Presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with Section 8.03, below. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President.

Section 8.02. Designation of Officers. The officers of the Foundation, except the Executive Director and those appointed under Section 8.03, below, shall be designated by the Board of Directors from among their number. Subject to the pleasure of the Board of Directors, all officers (other than the President) shall serve for terms extending from January 1 of the year for which designated through December 31 of that year and the President shall serve for a term ending on December 31 of the next even numbered year, and, in each case, thereafter until their successors shall have been duly designated. Upon taking office as President, the person so designated shall cease to be a director of the Foundation for any unexpired term for which originally designated and shall become an *ex officio* director.

Section 8.03. Other Officers. The Board of Directors may appoint and may authorize the President or another officer to appoint any other officers that the Foundation may require. Each officer so appointed shall have the title, hold office for the period, have the authority, and perform the duties specified in the Bylaws or determined by the Board of Directors.

Section 8.04. Removal of Officers. Without prejudice to any rights of an officer under any contract of employment, any officer may be removed with or without cause by the Board of Directors, or, if the officer was not chosen by the Board of Directors, by any officer of the Foundation to whom the Board of Directors may have delegated their power of removal.

Section 8.05. Resignation of Officers. Any officer may resign at any time by giving written notice to the Foundation. The resignation shall take effect as of the date the notice is received or any later time specified in the notice and, unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall

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Section 8.02. Designation of Officers. The officers of the Foundation, except the Executive Director and those appointed under Section 8.03, below, shall be designated by the Board of Directors from among their number. Subject to the pleasure of the Board of Directors, all officers (other than the President) shall serve for terms extending from January 1 of the year for which designated through December 31 of that year and the President shall serve for a term ending on December 31 of the next even numbered year, and, in each case, thereafter until their successors shall have been duly designated. Upon taking office as President, the person so designated shall cease to be a director of the Foundation for any unexpired term for which originally designated and shall become an *ex officio* director.

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Section 8.04. Removal of Officers. Without prejudice to any rights of an officer under any contract of employment, any officer may be removed with or without cause by the Board of Directors, or, if the officer was not chosen by the Board of Directors, by any officer of the Foundation to whom the Board of Directors may have delegated their power of removal.

Section 8.05. Resignation of Officers. Any officer may resign at any time by giving written notice to the Foundation. The resignation shall take effect as of the date the notice is received or any later time specified in the notice and, unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall

be without prejudice to the rights, if any, of the Foundation under any contract to which the officer is a party.

Section 8.06. Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office, provided, however, that vacancies need not be filled on an annual basis.

Section 8.07. Responsibilities of Officers.

(a) **President.** The President of the Foundation shall preside at meetings of the Board and shall serve as the principal liaison between the Board of Directors and the Executive Director. In addition, the President shall exercise and perform such other powers and duties as the Board may assign to the President from time to time.

(b) **Vice Presidents.** If the President is absent or disabled, the Vice President, if any, in order of their rank as fixed by the Board of Directors, or, if not so ranked, a Vice President designated by the Board of Directors, shall perform all duties of the President. When so acting, a Vice President shall have all powers of and be subject to all restrictions on the President. The Vice Presidents shall have such other powers and perform such other duties as the Board or these Bylaws may prescribe.

(c) **Secretary.** The Secretary shall keep or cause to be kept, at the Foundation's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings, and actions of the Board, and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held, whether the meeting was regular or special, the notice given, and, if special, how authorized, and the names of those present at Board and committee meetings. The Secretary shall keep or cause to be kept, at the principal office in California, a copy of the articles of incorporation and Bylaws, as amended to date. The Secretary shall give, or cause to be given, notice of all meetings of the Board and of committees of the Board required by these Bylaws to be given. The Secretary shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.

(d) **Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Foundation's properties and transactions. The Treasurer shall also send or cause to be given to the directors such financial statements and reports as are required to be given by laws, by these Bylaws, or by the Board. The books of account shall be open to inspection by any director at all reasonable times. It is the practice of the Foundation to have its books maintained by

designated persons on the Foundation's staff and for such persons to deposit funds in the appropriate Foundation accounts upon receipt.

The Treasurer shall deposit, or cause the appropriate person or persons on the Foundation's staff to deposit, all money and other valuables in the name and to the credit of the Foundation with such depositories as the Board may designate, shall disburse the Foundation's funds as the Board may order, shall render to the President and the Board, when requested, an account of all transactions as Treasurer and of the financial condition of the Foundation, and shall have such other powers and perform such other duties as the Board or these Bylaws may prescribe.

If required by the Board of Directors, the Treasurer shall give the Foundation a bond in the amount and with the surety or sureties specified by the Board of Directors for faithful performance of the duties of the office and for restoration to the Foundation of all of its books, papers, vouchers, money, and other property of every kind in the possession or under the control of the Treasurer on his or her death, resignation, retirement, or removal from office.

(e) The Executive Director. Subject to the direction and control of the President and the Board of Directors of the Foundation, the Executive Director shall have responsibility for the day to day management of the business and affairs of the Foundation. The Executive Director is a non-voting, ex-officio director and a non-voting, ex-officio member of the Executive Committee

ARTICLE IX

Indemnification and Statutory Liability Protections

Section 9.01 Indemnification of Directors.

(a) Right of Indemnity. To the fullest extent permitted by law, the Foundation shall indemnify its directors, officers, employees, and other persons described in section 5238(a) of the California Corporations Code, including persons formerly occupying any such position (collectively, "agents of the Foundation" or "agents"), against all expenses, judgment, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that section, and including an action by or in the right of the Foundation, by reason of the fact that the person is or was a person described in that section. The term "expenses," as used herein shall have the same meaning as in section 5238(a) of the California Corporations Code.

(b) Success on the Merits; Entitlement to Indemnification. To the extent that an agent of the Foundation has been successful on the merits in defense of any proceeding in which the agent was named by reason of the fact that the person was an agent of the Foundation, or has been successful on the merits in defense of any claim, issue or matter alleged in the proceeding, the agent shall be entitled to be indemnified against all expenses actually and reasonably incurred by the agent in defense of the proceeding.

(c) Approval of Indemnity. Except as provided in subparagraph (b), above, any indemnification pursuant to this Section 9.01 shall be made by the Foundation only if authorized in a specific case. On written request to the Board of any person seeking indemnification as a agent of the Foundation as a result of being named as a party in a proceeding described in either section 5238(b) or Section 5238(c) of the California Corporations Code, the Board shall promptly determine under section 5238(e) of the California Corporations Code whether the applicable standard of conduct set forth in section 5238(b) or section 5238(c) has been met and, if so, the Board shall authorize indemnification.

Any approval by the Board to indemnify an agent of the Foundation shall require the affirmative vote of a majority of a quorum of the directors, consisting of directors who are not parties to the proceeding giving rise to the request for indemnification. If a quorum of disinterested directors cannot be attained for any reason or if the Board declines to indemnify the agent, indemnification may nevertheless be approved by the court in which the proceeding is or was pending upon application made by the Foundation, the agent, or the attorney or other person rendering services in connection with the agent's defense, whether or not such application by the agent, attorney or other person is opposed by the Foundation.

(d) Advancement of Expenses. To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under subparagraphs (a) and (b), above, in defending any proceeding covered by Sections 5238(b) or 5238(c) of the California Corporations Code shall be advanced by the Foundation before final disposition of the proceeding, on receipt by the Foundation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Foundation for those expenses. Section 6.02(c), above, shall not apply to advances made pursuant to this subparagraph (d).

Section 9.02. Personal Liability of Volunteer Director or Officer for Negligence.

(a) Except as provided in subparagraph (c), below, there shall be no personal liability to a third party on the part of a volunteer director or volunteer executive officer of the Foundation caused by the director's or executive officer's negligent act or omission in the performance of that person's duties as a director or executive officer, if all of the following conditions are met:

- (i) The act or omission was within the scope of the director's or executive officer's duties.
- (ii) The act or omission was performed in good faith.
- (iii) The act or omission was not reckless, wanton, intentional, or grossly negligent.
- (iv) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the Foundation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the Board of Directors and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) For purposes of this Section 9.02, "volunteer" means the rendering of services without compensation and "compensation" means remuneration whether by the way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or officer does not affect that person's status as a volunteer within the meaning of this section.

(c) This section does not eliminate or limit the liability of a director or officer for any of the following:

- (i) Any liability with respect to self-dealing transactions as provided in California Corporations Code section 5233 or any liability with respect to certain prohibited distributions, loans or guarantees as provided in section 5237 of said law.
- (ii) In any action or proceeding brought by the California Attorney General.

ARTICLE X
Insurance

The Foundation shall have the right to purchase and maintain insurance to the fullest extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising out of the officer's director's, employee's, or agent's status as such.

ARTICLE XI
Records and Reports

Section 11.01. Maintenance of Corporate Records. The Foundation shall keep adequate and correct books and records of account and written minutes of the proceedings of the Board and committees of the Board.

Section 11.02. Inspection Rights. Every director of the Foundation shall have the absolute right at any reasonable time to inspect the Foundation's books, records, documents of every kind and the Foundation's physical properties. The inspection may be made in person or by the director's or officer's agent or attorney. The right of inspection includes the right to copy and make extracts of documents. Notwithstanding the foregoing statement of the right of directors to inspect the Foundation's books, records and properties, directors shall be obligated to exercise those rights in a manner and for a purpose which are consistent with the Director's fiduciary obligations as a director of a tax exempt charitable organization.

Section 11.03. Annual Reports. The Board shall cause an annual report to be sent to the Board of Directors within 120 days after the end of the Foundation's fiscal year. That report shall contain the following information, in appropriate detail, for the fiscal year:

- (a) The assets and liabilities, including the trust funds, of the Foundation as of the end of the fiscal year.
- (b) The principal changes in assets and liabilities, including trust funds.

(c) The revenue of receipts of the Foundation, both unrestricted and restricted to particular purposes.

(d) The expenses or disbursements of the Foundation for both general and restricted purposes.

(e) Any information required by Section 11.04, below.

The annual report shall be accompanied by any report on it of independent accountants or, if there is no such report, by the certificate of an authorized officer of the Foundation that such statements were prepared without audit from the Foundation's books and records.

This requirement of an annual report shall not apply if the Foundation receives less than \$25,000 in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all directions who request it in writing.

Section 11.04. Annual Statement of Certain Transactions and Indemnifications.

As part of the annual report to directors, or as a separate document if no annual report is issued, the Foundation shall annually prepare and mail or deliver to each director a statement of any transaction or indemnification of the following kind within 120 days after the end of the Foundation's fiscal year:

(a) Any transaction (i) in which the Foundation, was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than \$50,000, or was one of a number of transactions in which the same "interested person" had a direct or indirect material financial interest, and which transactions involved, in the aggregate, more than \$50,000. Mere common directorship shall not be considered a material financial interest. An "interested person" is any director or officer of the Foundation.

The statement shall include a brief description of the transaction, the names of interest persons involved, their relationship to the Foundation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(b) Any indemnification or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the Foundation, unless that indemnification has

already been approved by the Board under section 5238(e)(2) of the California Corporations Code, as that section is modified by section 5310(b) of the Corporations Code.

ARTICLE XII
Construction and Definitions

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, the plural includes the singular, and the term "person" includes both a legal entity and a natural person.


ARTICLE XIII
Amendments

These Bylaws may be amended in any respect or repealed and replaced with new Bylaws by (i) the affirmative vote of a majority of the directors then in office; and (ii) approval by or on behalf of the Board of Governors of the State Bar.

CERTIFICATE OF SECRETARY

I certify that I am the duly designated and acting Secretary of The Foundation of the State Bar of California, a California nonprofit public benefit corporation; that the above Bylaws consisting of 21 pages, are the Bylaws of the Foundation of the State Bar of California as amended by the Board of Directors at its meeting on 11/7/98 and that these Bylaws have not been amended or modified since that date. These amended and restated Bylaws were also approved by the Board of Governors of the State Bar of California at a meeting held in San Diego California, on December 5, 1998.

Executed on December 14, 1998, at Ventura, California
(Date) (Location)



Michael W. Case, Secretary