

AGENDA ITEM

NOVEMBER 10 - Board of Governors
September 22, 2010 Minutes

THE STATE BAR OF CALIFORNIA
MINUTES
BOARD OF GOVERNORS MEETING
MONTEREY, CALIFORNIA
WEDNESDAY, SEPTEMBER 22, 2010

The Board of Governors of The State Bar of California convened in open session in the Monterey Marriott, San Carlos III Room, 350 Calle Principal, Monterey, CA 93940 4:30 PM on Wednesday, September 22, 2010, Howard B. Miller presiding.

The following members of the Board of Governors were present: James H. Aguirre, Lowell Carruth, Joseph L. Chairez, Angela J. Davis, George O. Davis, Jeannine English, William H. Gailey, Clark E. Gehlbach, William N. Hebert, Cheryl L. Hicks, Patrick Kelly, Micha Liberty, Wells Lyman, Dennis Mangers, Michael D. Marcus, Gwen Moore, Jon Streeter, Michael A. Tenenbaum, and Patricia P. White.

The following members of staff were present: Starr Babcock, Resty Buenavidez, Diane Curtis, Randy Difuntorum, Francisco Gomez, Robert A. Hawley, Judy Johnson, Gayle Murphy, Cathy Torney, James Towery, Russell Weiner, Colin Wong, and Larry Yee.

Also present: Jennifer Wada, the Bar's outside legislative consultant

The roll-call vote was taken, and upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the roll-call vote will be substituted for the vote unless otherwise noted.

- 30 Mr. Miller, President reported on the coming activities at the Annual Meeting and thanked everyone for attendance.
- 41/42 Ms. Johnson, Executive Director gave no report.
- 50 All items on the consent agenda were presented to the Board, and no objection being raised thereto, the following items on the consent agenda were deemed unanimously adopted.

51, 52, 53

51 - Financial Statement for the Quarter Ended June 30, 2010

RESOLVED, upon recommendation of the Board Operations Committee, that the Board hereby receives the financial statement for the quarter ended June 30, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

52 - Investment Report for the Quarter Ended June 30, 2010

RESOLVED, upon recommendation of the Board Operations Committee, that the Board hereby receives the investment report for the quarter ended June 30, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

53 - Client Security Fund Report for the Quarter Ended June 30, 2010

RESOLVED, upon recommendation of the Board Operations Committee, that the Board hereby receives the Client Security Fund report for the quarter ended June 30, 2010, as certified

112

Upon motion made, seconded and adopted, it was

RESOLVED, following publication for comment, and no comments having been received, and upon recommendation of the Board Committee on Operations, that the Board of Governors hereby adopts the proposed law corporation rules 3.150-3.161 with amendments to include provisions for nonprofit public benefit corporations, in the form attached, as Division 2, Chapter 2 of Title 3 of the Rules of the State Bar of California and repeals the current Law Corporation Rules of The State Bar of California and directs staff to transmit the proposed new rules to the California Supreme Court with a request that the Court approve the new rules and repeal the current Law Corporation Rules of The State Bar of California.

All members present and recorded on the roll-call slip voted yes on the above matter.

113

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board of Governors hereby adopts the proposed seven committee structure that re-establishes the RAD committee, the Stakeholders Relations Committee and its legislative function, bifurcates the Member Involvement, Relations and Services into the Member Oversight and Volunteer Involvement committees and maintains the current Planning, Program Development and Budget, Audit, and Board Operations, and Sections Task Force.

FURTHER RESOLVED, that the Board of Governors directs staff to align the previously adopted committee charters with the above-named committees.

All members present and recorded on the roll-call slip voted yes on the above matter except James Aguirre who abstained.

114 Upon motion made, seconded and unanimously adopted, it was

RESOLVED upon recommendation of the Board Committee on Operations, subject to enactment of AB 2764 and the amounts authorized therein effective January 1, 2011, the Board of Governors hereby sets the annual membership fee for active members in 2011 at \$410 and the annual membership fee for inactive members at \$125; and it is

FURTHER RESOLVED that the total Keller deduction for the 2011 annual membership fee be set at \$10, which shall include \$5 for legislative activities under Business and Professions Code section 6140.05 and \$5 for activities in the Bar Relations and Elimination of Bias programs; and it is

FURTHER RESOLVED that under the Temporary Emergency Legal Services Voluntary Assistance Option in Business and Professions Code section 6140.01, a \$10 deduction from the annual membership fee is to be provided to each member if the member elects not to have this amount allocated to support nonprofit organizations that provide free legal services to persons of limited means and it is

FURTHER RESOLVED that the penalties imposed on delinquent 2011 annual membership fees be set at \$100 for active members and \$30 for inactive members; and it is

FURTHER RESOLVED that the penalties on delinquent 2010 annual membership fees for all members, other than new admittees, billed on or after February 14, 2010 be set at \$100 for active members and \$30 for inactive members; and it is

FURTHER RESOLVED that said penalties in the preceding paragraphs shall be assessed on February 2, 2011; and it is

FURTHER RESOLVED that the reinstatement penalties for members to terminate suspension for nonpayment of accrued fees, penalties, and/or costs be set at \$100; and it is

FURTHER RESOLVED that the membership fees for new members admitted in 2011 be set as follows: fees of \$410 for those admitted between January 1 and May 31, 2011 and \$205 for those admitted between June 1 and November 30, 2011; and it is

FURTHER RESOLVED that late payment penalties for new members admitted in 2011 be assessed and set on the 46th day from the invoice date as follows: \$100 for those admitted between January 1 and May 31, 2011, and \$50 for those admitted between June 1 and November 30, 2011; and it is

FURTHER RESOLVED that the MCLE noncompliance fee be set at \$75 and the reinstatement fee to terminate MCLE inactive enrollment be set at \$200 for 2011; and it is

FURTHER RESOLVED that the interest on assessed costs for reimbursement to the Client Security Fund be set at 10% annually calculated from the date of disbursement as set forth by the Board, pursuant to Business and Professions Code section 6140.5(c); and it is

FURTHER RESOLVED that the administrative penalty on failure to comply with binding arbitration is charged at a fee not to exceed 20% of the amount ordered refunded to the client or \$1,000 whichever is greater.

All members present and recorded on the roll-call slip voted yes on the above matter.

115 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby receives the audited Statement of Expenditures of Mandatory Membership Fees for the year ended December 31, 2009, and the accompanying Report of the Independent Auditor, copies of which is attached hereto, and directs staff to publish the Statement and Report when the billing of 2009 membership fees is mailed to members by posting the Statement and Report on the State Bar Web site with notice in the December 2009 issue of the California Bar Journal

All members present and recorded on the roll-call slip voted yes on the above matter.

121 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following public comment period and consideration of comments received, and upon recommendation of the Discipline Oversight Committee, the Board of Governors of the State Bar hereby adopts the amendments to the Rules of Procedure of the State Bar of California in the form attached hereto as Attachment B, effective January 1, 2011, and the amended rules will apply to all pending and future matters filed in the State Bar Court, except as to:

1. Hearing Department proceedings in which the taking of testimony or the offering of evidence at trial has commenced;
2. Review Department matters in which a request for review is filed prior to January 1, 2011; and,
3. Any other particular proceeding pending as of the effective date in which the Court orders the application of a former rule(s) based on a determination that injustice would otherwise result.

FURTHER RESOLVED, that two years after the effective date of the amendments the State Bar Court will, in consultation with the Office of the Chief Trial Counsel and other interested parties, administer an evaluation and prepare a report to determine the efficacy of the amendments to the Rules of Procedure.

All members present and recorded on the roll-call slip voted yes on the above matter.

131 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following publication for comment and consideration of comments received, that the Board of Governors of the State Bar of California hereby adopts the proposed new and amended Rules of Professional Conduct of the State Bar of California, in the form attached to these minutes and made a part hereof, and hereby directs that said rules be transmitted by staff to the Supreme Court with a request that the rules be approved by the Court.

FURTHER RESOLVED, upon the recommendation of the Board Committee on Regulation and Admissions Oversight, that the Board of Governors of the State Bar of California thank the members of the Special Commission for the Revision of the Rules of Professional Conduct for the completion of their assigned project, and authorize the placement of said Commission on inactive status until reactivated by the Board.

All members present and recorded on the roll-call slip voted yes on the above matter.

701 Upon motion made, seconded and unanimously adopted, it was

RESOLVED that the Board hereby appoints and elects the following as the 2010-11 vice-presidents of The State Bar of California:

James H. Aguirre
Angela Joy Davis
Joseph L. Chairez
Laura N. Chick
William H. Gailey
Micha Star Liberty
Jon Streeter
Michael Tenenbaum; and it is

FURTHER RESOLVED that the Board hereby elects George O. Davis as the 2010-11 treasurer of The State Bar of California; and it is

FURTHER RESOLVED that the Board hereby reaffirms its selection of Judy Johnson as Secretary of The State Bar of California.

All members present and recorded on the roll-call slip voted yes on the above matter except Micha Liberty and Streeter who abstained.

702 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board of Governors authorizes staff to proceed with the IFB identified in the item before the Board this date, within the parameters set forth.

All members present and recorded on the roll-call slip voted yes on the above matter except Clarke Gehlbach who voted no and Dennis Mangers and Jon Streeter who abstained.

The Board went into closed session at 5:30 p.m. and those other persons present left the meeting.

The Board resumed open session at 5:45 p.m.

6010 The closed consent appointments agenda was presented to the Board, and no objection being raised thereto, the following items on the consent appointments agenda were deemed unanimously approved.

6011 **RESOLVED**, upon recommendation of the Board Committee on Member Involvement, Relations and Services, that the Board hereby appoints Sharon R. Vinick, Oakland, member, Labor and Employment Law Section Committee, effective at the close of the 2010 State Bar Annual Meeting (i.e., September 26, 2010), for a term expiring at the close of the 2013 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

6012 **RESOLVED**, upon recommendation of the Board Committee on Member Involvement, Relations and Services, that the Board hereby appoints Sanford M. Skaggs, San Francisco, member, Continuing Education of the Bar (CEB) Governing Committee, effective at the close of the 2010 State Bar Annual Meeting (i.e., September 26, 2010), for a two-year term expiring at the close of the 2012 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier; and it is

FURTHER RESOLVED, that the Board appoints Marilyn Anticouni, Vice Chair, of said committee, for a one-year term commencing at the close of the 2010 State Bar Annual Meeting (i.e., September 26, 2010) and expiring at the close of the 2011 State Bar Annual Meeting (i.e., September 18, 2011), or until further order of the Board, whichever occurs earlier.

6013 **RESOLVED**, upon recommendation from the Member Involvement Relations & Services, that the Board hereby reappoints David Britton, Vice Chair, Bankruptcy Law Advisory Commission, effective at the close of the 2010 State Bar Annual Meeting (i.e., September 26, 2010), for a one-year term expiring at the close of the 2011 State Bar Annual Meeting (i.e., September 18, 2011), or until further order of the Board whichever occurs earlier.

6014

RESOLVED, upon recommendation from the Member Involvement Relations & Services, that the Board hereby appoints the chair and members, as indicated below, to the Trademark Law Consulting Group, effective immediately, each to serve thereon until further order of the Board:

<u>Chair</u>	<u>City</u>	<u>District</u>
David Makous, Chair	Los Angeles	7
<u>Members</u>	<u>City</u>	<u>District</u>
Carole Barrett	San Francisco	4
Katherine Basile	San Francisco	4
Anne Gundelfinger	Menlo Park	3
Mary Harris	San Luis Obispo	6
D. Peter Harvey	San Francisco	4
Alan Kindred	Los Angeles	7

The Board may meet again at the call of the President at any time prior to the next regularly scheduled meeting of the Board, or, if no such meeting be called, at the State Bar offices, 180 Howard Street, San Francisco, CA 94105, on Saturday, November 20, 2010, at a time to be determined.