

MEETING  
OF THE  
BOARD OF GOVERNORS  
OF THE  
STATE BAR OF ARIZONA  
July 9, 2010

Radisson Woodlands Hotel  
Flagstaff, AZ

**BOARD MEMBERS PRESENT:** Alan P. Bayham, Jr., President, Phoenix; Joseph A. Kanefield, President-Elect, Phoenix; Amelia Craig Cramer, First Vice President, Tucson; Whitney Cunningham, Second Vice President, Flagstaff; Richard T. Platt, Secretary-Treasurer, Florence; Theodore Campagnolo, Phoenix; Bryan Chambers, Globe; Richard D. Coffinger, Glendale; Michael J. Crawford, Tucson; Stephen M. Dichter, Phoenix; Diane L. Drain, Phoenix; Jana Flagler, Bisbee; Christopher Jensen, Prescott; Lisa Loo, Tempe; Maricela Meza, Young Lawyers Division, Tucson; Dee-Dee Samet, Tucson; Jimmie Dee Smith, Yuma; Public Members: Alexander B. Jamison, Scottsdale; John J. Sullivan, Sahuarita; Frank Barriga, Glendale, and Meredith Peabody, Prescott; At-Large Members: Mike Baumstark, alternate for David K. Byers, Phoenix; Jennifer J. Burns, Tucson; David K. Byers, Phoenix; Virginia Herrera-Gonzales, Mesa and Ex-Officio Members: Hon. Dave Cole on behalf of Interim Dean Ann Woodley, Phoenix; Gary Stuart, on behalf of Dean Paul Schiff Berman, Tempe; Raymond A. Hanna, Immediate Past President, Prescott.

**BOARD MEMBERS WITH EXCUSED ABSENCES:** Tom Crowe, Phoenix; H. Leslie Hall, Phoenix; and Ex Officio: Dean Lawrence Ponoroff, Tucson

**OTHERS PRESENT:** Nina Benham, Board and Member Services Specialist; Patty Berg, Human Resources Director; Rick DeBruhl, Communications Director; John Furlong, General Counsel/Deputy Director; Tom Johnson, Chief Financial Officer; Ann Leslie, Executive Assistant; I. Godwin Otu, Diversity Director; John Phelps, CEO/Executive Director; Pat Sallen, Ethics Counsel; Carrie Sherman, Director of Board Operations; Maret Vessella, Chief Bar Counsel.

President Alan Bayham called the meeting to order at 8:25 a.m.

### **PRESIDENT'S REPORT**

President Bayham thanked Whitney Cunningham for hosting the reception and dinner at his home, and Nina Benham for her work in putting it all together.

President Bayham reviewed highlights from the Retreat, including the Board's intention to focus on strategic issues. Each subsequent monthly Board agenda will provide ample time to discuss important matters such as 1) Mandatory Continuing Legal Education (MCLE) review; 2) Discipline Guidelines; 3) Mission Statement (referred to Long-Range Planning Committee) and 4) Positive Things Lawyers Do.

## **CEO/EXECUTIVE DIRECTOR**

John Phelps touched on highlights of his written report that was sent out prior to the meeting. He further reported on the new Board member orientation and discussed the Bar moving in the direction of performance measures. Mr. Phelps stated that managers were completing mid-year reviews of all employees and that quarterly reviews are now being given which weren't done in the past with each individual employee. Additionally, each department is working on performance matrixes with regard to the objectives contained in the Long-Range Plan.

The Bar Leadership Institute has received 26 applications and will be identifying the next class.

The Convention was very successful and the participation of 195 judges certainly helped in terms of numbers. Although it was an alternative program for them this year, it was very nice to have attorneys and judges at the same venue.

## **RULES COMMITTEE**

Whitney Cunningham reviewed the Volunteer Participation Guidelines and Disclosure Policy which had been edited and revised. This was presented to Scope and Operations which unanimously recommended their adoption. If approved, the Board members would need to sign the Conflict of Interest Statement and turn it into Nina Benham.

Discussion: it was recommended to add on the bottom of the form the last date of review - 7/9/10, and to delete the word "suspended" from the Policy Guidelines. Mr. Cunningham agreed to make said changes.

The Board unanimously voted to approve the Volunteer Participation Guidelines and Disclosure Policy as presented with the two recommended changes.

## **APPOINTMENTS COMMITTEE**

### **City of Mesa Judicial Advisory Board**

Coming as a motion from the Appointments Committee: Nominate Mr. Phillip Austin; Mr. Ezra Clark and Mr. Stephen Lea to the Mesa City Council for its consideration to fill the

vacancy on Mesa's JAB. The motion unanimously passed.

### Maricopa County Commission on Trial Court Appointments

Mr. Cunningham reviewed the letter received from the Governor requesting three nominations, not two as had been previously forwarded to her. The previous nominees submitted were Jennifer Hunter and Donald Karl. Scope and Operations has reviewed this matter and recommends the addition of Mr. Robert Gallagher's name who was previously vetted by the Appointments Committee and is a Republican.

Dee-Dee Samet spoke on behalf of Tom Collins and advocated the addition of his name to the list, not a substitution for Robert Gallagher.

Recommendation from the Scope Committee was to add Robert Gallagher.

Dee-Dee Samet moved, Christopher Jensen seconded and motion carried to amend the motion to add Tom Collins

Richard Platt moved and Jana Flagler seconded and motion carried unanimously to send four names: Jennifer Hunter, Donald Karl, Robert Gallagher and Tom Collins to the Governor for consideration for the Supervisorial District 5 opening on the Maricopa County Commission on Trial Court Appointments.

### DISCIPLINE GUIDELINES

Maret Vessella, Chief Bar Counsel, reviewed the Diversion Guidelines with the Board. During the comment period, which closed on June 30, 2010, 28 comments were received. Ms. Vessella discussed some of the various comments received. Several comments relayed concerns about excluding from diversion eligible cases that involve the commitment of domestic violence. After discussion,

Amelia Craig Cramer moved, Richard Platt seconded, and the motion carried to approve the Guidelines maintaining the provision that would exclude as diversion eligible those cases involving the commitment of domestic violence. The motion is to approve the Guidelines, allowing Ms. Vessella to make some edits that will not modify the substance of the Guidelines.

### AMICUS COMMITTEE

Richard Platt reviewed a matter that involved three Michigan lawyers living in Arizona but practicing exclusively in Michigan. Ethics Counsel Pat Sallen indicated that Admission on Motion activities in Arizona are deemed the Unauthorized Practice of Law (UPL) under Rule 5.5

and Ethics Opinion 10-02; however, some activities are permitted. All three lawyers in question applied for admission in Arizona under Admission on Motion. They were denied admission during the character and fitness process due to what was considered UPL activities.

Mr. Platt indicated that said three applicants have filed petitions for review in the Supreme Court. The Committee recommends that the Board file amicus briefs with the Court in support of the current Ethical Rules and Opinion 10-02. Lisa Loo seconded the motion. Dave Byers abstained. In a vote of 10 to 9, motion carries.

In addition, Whitney Cunningham moved and Dee-Dee Samet seconded and the motion carried unanimously to refer the issue of what is permissible under Rule 5.5, without crossing over into the UPL, to the Rules and Ethics Committees for an Opinion.  
(Secretary's Note: The UPL Committee will also be asked to weigh in.)

## **CONSENT AGENDA**

Ted Campagnolo moved, Amelia Craig Cramer seconded, and the motion carried unanimously to approve the Consent Agenda: Approval of June 8, 2010 Board of Governors Meeting minutes; Approval of Resignations in Good Standing; Approval of Reinstatement of Members Suspended for Non-Compliance with Ariz.Sup.Ct. Rule 32(c)(9) and/or Rule 43 (Annual Membership Dues and Trust Account Compliance); and Ratify Action of Scope and Operations re: Response to Petition R-09-0040, Rules 35,37, Ariz.R.Civ.P.

## **FINANCE COMMITTEE REPORT**

Tom Johnson, Chief Financial Officer, reviewed the current financials and recapped the status of the tenants' leasing arrangements. Mr. Johnson further reported that an architect is reviewing the space and the possibility of moving the reception area to the first floor when the current tenant vacates in December.

## **CHIEF BAR COUNSEL REPORT**

Ms. Vessella reported on the upcoming changes in the Lawyer Regulation Division that will include transitioning two Bar counsel into the intake department. Ms. Vessella will work with Rick DeBruhl on methods to engage consumers.

## **BOARD OF GOVERNORS POLICY MANUAL 2010**

Nina Benham, Board and Member Services Specialist, provided the Board of Governors with an updated version of the BoG Policy Manual on CDs. Ms. Benham briefly reviewed its contents

and how to utilize this tool. Carrie Sherman, Director of Board Operations, recognized Ms. Benham for her excellent work in revamping and updating this important resource, and the Board extended their appreciation.

**ADJOURN**

There being no further business to come before the Board of Governors, the meeting adjourned at 4:30 p.m.

Respectfully submitted,

Richard T. Platt  
Secretary/Treasurer