MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
September 18, 2015
Phoenix, AZ

BOARD MEMBERS PRESENT: Geoffrey Trachtenberg, President, Phoenix; Lisa S. Loo, President-Elect, Phoenix; Alex B. Vakula, First Vice President, Prescott; Jeffrey Willis, Second Vice President, Tucson; Richard D. Coffinger, Glendale; Diane L. Drain, Phoenix; Brian Y. Furuya, Flagstaff; Patrick Greene, Tombstone; Melissa S. Ho, Phoenix; James B. Penny, Tucson; Jennifer R. Rebholz, Phoenix; Samuel Saks, Phoenix; Dee-Dee Samet, Tucson; Jimmie Dee Smith, Yuma; Public Members: Audrey R. Jennings, Scottsdale; Meredith Peabody, Prescott; Anna C. Thomasson, Phoenix; and At-Large Members: Lori Higuera, Phoenix; and Paul Senseman, Phoenix; Ex-Officio Members: Leah Won for Dean Marc L. Miller, Tucson; Gary Stuart for Dean Douglas Sylvester, Tempe.

EXCUSED ABSENCES: David K. Byers, Phoenix or Mike Baumstark, Phoenix; Tyler Carrell, YLD President, Phoenix; Hon. David G. Derickson, Phoenix; Denis M. Fitzgibbons, Casa Grande; Steven A. Hirsch, Secretary-Treasurer, Phoenix; Ex-Officio Members: Richard T. Platt, Immediate Past President; Dean Shirley Mays, Phoenix; Public Member: Tony Finley, Tucson.

OTHERS PRESENT: Nina Benham, Board Services Specialist; Matt Campbell, Help Desk Technician; Lisa Deane, Chief Member Services Officer; Rick DeBruhl, Chief Financial Officer; John Furlong, General Counsel/Deputy Director; Rob Hosch, Technology Support Director; Gayle V. Jackson, Human Resources Director; Ann Leslie, Executive Assistant; John Phelps, CEO/Executive Director; Amy Rehm, Deputy Chief Bar Counsel; Patricia Seguin, Legal Services Manager; Carrie Sherman, Director of Board Operations; Maret Vessella, Chief Bar Counsel and Court Liaison Hon. Ann A. Scott Timmer, Phoenix.

GUESTS: Jack Levine; John and Stacey Quinn, High Score and Bar Exam and parents of John Quinn, Alison and Brian Quinn; Peter Collins and John Ager.

President Geoffrey Trachtenberg called the meeting to order at 8:30 a.m.

PRESIDENT’S REPORT
• Reviewed goals for the 2015-2016 year ahead.
• The Governance Report Study Group has met and is moving forward. Encouraged each Board member to review the report and the video presented by Justice Rebecca White Berch on the Supreme Court’s Web site.
• Plans to work to increase pro bono efforts. Collaborating with the Military Legal Assistance and Legal Services Committees, Arizona State University, others.
• Attended the Arizona Association of Corporate Counsel reception at the Phoenix Zoo. Chief Justice Scott Bales addressed access to justice issues.
• Section Liaison Assignments – Re-implementing the practice of assigning a board member to a Section to enhance two-way communications. Expectation that each board member would attend at least one Executive Council meeting in person and stay in touch with the Section chair during the current Bar year.

CEO/ED REPORT – John Phelps
• Recently focused on the transition of new leadership for this Bar year.
• Introduced Matt Campbell, new to the Technology Department.
• Arizona Access to Justice Commission, chaired by Judge Lawrence F. Winthrop, voted to explore limited legal licensed technicians for Arizona. Washington State has approved LLLTs; New York is reviewing whether they could fill the gap between pro per litigants and pro bono efforts.
• Commended staff who are engaged in national law-related organizations such as the National Association of Bar Executives, National Organization of Bar Counsel; Association of Continuing Legal Services Administrators:
  ➢ Lisa Deane, Senior Member Services Officer; ACLEA Past President; NABE Program Committee; ABA CLE Committee.
  ➢ Pat Sallen, Director, Special Services and Ethics, Deputy General Counsel; ABA Center for Professional Responsibility Policy Implementation Committee.
  ➢ Maret Vessella, Chief Bar Counsel; ABA Standing Committee on Professional Discipline.
  ➢ Tim Eigo, Editor, Arizona Attorney Magazine; his “Ethical Decision Making – The Courage to Say No” was the top-rated seminar at the annual NABE Conference; NABE Communications Section Secretary.
  ➢ Rick DeBruhl, Chief Communications Officer; “Paying Attention to Politics” 2nd highest ranked seminar at the annual NABE Conference.
• The State Bar of Arizona is noted for its talent, expertise and reputation nationwide.
• Just held the annual mandatory ethics training for staff re: ethical workplace, stewardship, integrity.
• Attended the Annual Phoenix Chamber Economic Outlook presentation.
• Arizona continues to climb out of recession but not at the speed of other states. Population growth was 6-7% before recession; 1.5-2% now (Bar membership tracks that).
• 9th Annual Bar Leadership Institute – 2016 class selected. Monthly program begins today; President Trachtenberg participating. Over 130 lawyer-alums have gone on to become leaders in the State Bar and other law-related organizations.
• Staff is preparing the 2016 budget; zero based, build up from the bottom.
• Member Services Team closing out the CLE year.

CONSENT AGENDA
President Trachtenberg asked if anything was to be removed from the Consent Agenda, hearing nothing:
  VOTE: The Consent Agenda was unanimously approved:
• July 23, 2015 Board of Governors Meeting Minutes
• Approval of Resignations in Good Standing
• Approval of Resignations in Lieu of Reinstatements
Approval of Reinstatements:
Reinstatement to Practice of Members suspended for Non-Compliance with Annual Membership Dues and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.

CONSENT AGENDA (Continued)

- Approval of Request for 2015 Annual Dues Waivers Requests/Late Fees
- Governance Report Study Group - Charter

APPOINTMENTS COMMITTEE – Chair Jeffrey Willis

ARIZONA SUPREME COURT COMMITTEE ON CHARACTER AND FITNESS (one non-lawyer opening)

- The Appointments Committee recommended the following slate of qualified candidates, in ranked order, for the Board’s submission to the Arizona Supreme Court for its consideration and ultimate selection of a public member to serve on its Character and Fitness Committee. The Court requests three nominations per opening.
  - Ms. Rachel Schaming
  - Dr. Beverly Muhammad
  - Mr. Carl Landrum
  - VOTE: Coming from the Appointments Committee as a motion, the Board voted unanimously to send the slate to the Arizona Supreme Court.

ARIZONA SUPREME COURT COMMITTEE ON CHARACTER AND FITNESS (two lawyer openings)

- The Appointments Committee recommended the following slate of qualified candidates, in ranked order, for the Board’s submission to the Arizona Supreme Court for its consideration and ultimate selection of two lawyers to serve on its Character and Fitness Committee. The Court requests three nominations per opening.
  - Ms. Alane Breland
  - Mr. Edward Maldonado
  - Mr. Stephen M. Dichter
  - Mr. Stephen L. Weiss
  - Ms. Tanja Kelly
  - Ms. Nora Greer
  - VOTE: Coming from the Appointments Committee as a motion, the Board voted unanimously to send the slate to the Arizona Supreme Court.

ARIZONA SUPREME COURT COMMITTEE ON EXAMINATIONS (three lawyer openings)

- Appointments Committee Chair Jeffrey Willis reported that in addition to the one advertised lawyer opening, the Committee was informed that there have been two resignations on the Examinations Committee. The Exams applicant pool was inadequate to furnish the Supreme Court with three nominations per opening. Since many of the applicants had
indicated on their applications that they were interested in serving on either the Character and Fitness (C&F) or Exam Committee, the Appointments Committee voted to add Exam applicants to the slate of C&F candidates, thus providing the Board (and the Court) with a total of nine nominations for the three openings.

- Ms. Alane Breland
- Mr. Edward Maldonado

ARIZONA SUPREME COURT COMMITTEE ON EXAMINATIONS (three lawyer openings) - Continued

- Mr. Stephen M. Dichter
- Mr. Stephen L. Weiss

ARIZONA SUPREME COURT COMMITTEE ON EXAMINATIONS (Continued)

- Ms. Tanja Kelly
- Ms. Nora Greer
- Mr. Andrew Kvesic
- Mr. Adam Zickerman
- Ms. Lauri Owen
- **VOTE:** Coming from the Appointments Committee as a motion, the Board voted unanimously to send the slate of nine to the Arizona Supreme Court. Staff is to verify that the candidates who applied for the C&F Committee are willing to be considered for the Exams Committee as well.

DISCIPLINE OVERSIGHT WORKING GROUP REPORT – Geoffrey M. Trachtenberg

- Formed in December 2014, the working group of Board and State Bar staff members included Geoffrey Trachtenberg, Chair, Justice Ann Timmer, Paul Senseman, Amy Rehm and Maret Vessella. The group was to consider the Board’s responsibilities and role relating to the oversight of the regulatory functions.
- The group met a number of times, assumed, without deciding, the existence of a fiduciary duty and made recommendations to the Board regarding its oversight responsibility at the July 2015 Board Retreat.
  - The report provided is the final report and includes twelve recommendations for the Board’s consideration and action.
  - **MOTION:** Sam Saks moved and Diane Drain seconded the motion to postpone a vote until the October Board meeting.
  - **VOTE:** 8-8 with President Trachtenberg breaking the tie; motion failed.
  - Discussion ensued and Justice Timmer reminded the Board of the presentation at the Retreat in July.
  - **MOTION:** Patrick Greene moved and Lisa Loo seconded the motion to approve the recommendations of the ad hoc committee as contained in the Discipline Oversight Working Group Report.
  - **VOTE:** Unanimous
- President Trachtenberg stated that a three-part educational series will be presented to the Board starting in October regarding the current discipline process.

Finance & Audit Committee – CFO Kathy Gerhart
• **2016 Budget Guidelines**
  - Anticipates no significant changes to the programs and services provided to members and the public.
  - The budget will include an increase in annual membership dues as directed by Supreme Court Administrative Order No. 2014-32.

**Finance & Audit Committee** – CFO Kathy Gerhart

• **2016 Budget Guidelines** (Continued)
  - Revenues and expenses in the 2016 budget will be consistent with the five-year financial projections as provided to the Board of Governors on July 23, 2015, which support the long range vision of the SBA to include the following:
    - Estimated annual revenues will be based on analysis of dues and non-dues income trends.
    - Estimated operational expenses will be based on analysis of costs associated in the functional areas of the SBA.
    - Total personnel expenses including payroll taxes, compensation and benefits not to exceed a 3% increase over the 2015 personnel budget.
  - MOTION and VOTE: Coming as a motion from the Human Resource Committee and Finance & Audit Committee, requiring no second, motion carried unanimously to adopt the 2016 Budget Guidelines.

• **June 2015 Quarterly Financial Statement Report**
  - For the six months ended June 30, 2015, the Bar’s income generated a surplus of $1,178K excluding sections.
  - The surplus year-to-date is $525K more than budgeted. This is due to $228K more in revenues and $297K less in expenses.
  - Cash and cash equivalents increased $4,576K which includes $61K in capital expenditures to-date.
  - The balance sheet reflects a Net Worth/Net Assets of $11,476K.
  - Sections activity reported a surplus of $172K compared to a budgeted surplus of $174K.
  - Significant Variances – Dues – Penalty Revenue - $325K more than anticipated due primarily to increased late fees assessed. There are no other significant variances.

**AWARD-HIGH SCORE ON THE FEBRUARY BAR EXAM** – Geoffrey M. Trachtenberg

- John Christopher Quinn, Tempe, AZ received the highest score on the February Multi-State Bar Exam that had an overall pass rate of 58%.
- President Trachtenberg presented Mr. Quinn a gift from the State Bar.

**PAST PRESIDENT POSITION AND DUTIES** – Geoffrey M. Trachtenberg

- President Trachtenberg stated that Bryan Chambers would be the past president but by virtue of his being appointed to the judiciary that renders him incapable of serving according to Court rule.
- The officers recommended Richard Platt to serve as Immediate Past President. Mr. Platt has agreed to do so, in addition to chairing the Program Review Committee this year.
- MOTION: Coming as a motion from the Scope and Operations Committee to have Richard Platt serve as Immediate Past President, an ex-officio non-voting member of the Board and to serve as the chair of the PRC.
- VOTE: Unanimous.

**COLLEGE OF TRIAL ADVOCACY** – John P. Ager and Peter Collins
- In existence 28 years.
- Eight of the last 11 week-long colleges have been financially successful.
- Participants consistently rate the program 7 out of 7.
- 40 faculty.
- Small breakout groups with three to four faculty.
- Volunteers serve as expert witnesses and jurors and judges volunteer to serve as judges for the ending “jury trial”.
- Run by an independent board under the auspices of the Trial Practice Section.
- Trial Practice Section offers two scholarships on basis of need.
- The Trial College is requesting assistance from the State Bar in the following ways:
  - Support with advertising on the web with top billing during January and February
  - *Arizona Attorney Magazine* space to advertise the Trial College
  - Advertising in the Rattler
  - Staff administrative support

**GOVERNANCE REPORT STUDY GROUP** – Chair Jeffrey Willis
- Members: Jeffrey Willis, Chair; Richard Coffinger; Richard Erickson; Jana Flagler; Lisa Bossard Funk; Steve Hirsch; Audrey Jennings; Meredith Peabody; Resource Experts Patricia Sallen and Carrie Sherman; Administrative Staff Liaison Patricia Seguin.
- First meeting held.
- The Supreme Court can adopt the Task Force Report’s recommendations or a hybrid. A rule change petition is expected to which the Board can respond. In the meantime the Study Group divided into four subgroups to review the recommendations regarding: 1) Appointments/Elections (size of Board); 2) Composition of the Board; 3) Role of the Board; 4) Board of Legal Specialization
- Next meeting: September 30

**ANITTRUST ISSUES TASK FORCE REPORT** – Geoffrey M. Trachtenberg
- Formed to review and analyze the implications of the North Carolina State Board of Dental Examiners v. Federal Trade Commission case as applied to SBA programs and functions.
- Recommendations include: 1) Engage in regular “North Carolina Dental Board reviews” of programs and processes; 2) Endorse the changes recommended to the specialization procedure by the Supreme Court’s Task Force on the Review of the Role and Governance Structure of the State Bar of Arizona; 3) Drive home to vendors who are selected to provide discounts to members that they cannot advertise that the State Bar endorses them or that they are exclusive providers.
- This report is information only and no vote required.
STRATEGIC PLANNING COMMITTEE – Chair Lisa Loo

- Ms. Loo reported that the committee will begin assigning responsibility and deadlines for each action item.
- Important to have the Strategic Plan in place to use it to guide the budgeting process

SUSTAINABILITY TASK FORCE FINAL REPORT – John Phelps

- This task force was sunset in July pending receipt of its final report to the Board submitted by Task Force Chair Jennifer Mott who regretfully was unable to attend this meeting.
- Mr. Phelps reported on some of the things the Bar has done or is in the process of doing:
  - Xeriscape to reduce water usage and conservation
  - Allow employees to telework
  - Incentive programs for using public transportation, carpool and telework
  - SBA is a finalist for the Maricopa County’s Trip Reduction Program Award
  - As of this meeting the SBA doesn’t have an internal “green team” as recommended by the Task Force.

OBITUARIES

To honor our members who have passed, a webpage has been created and will be posted at www.azbar.org/NewsEvents/InMemoriam.

ADJOURN

There being no further business to come before the Board of Governors, the meeting adjourned at 10:30 a.m.

Respectfully submitted,

Jeffrey Willis
Second Vice President