MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
August 1, 2014
Phoenix, AZ

BOARD MEMBERS PRESENT: Richard Platt, President, Coolidge; Bryan B. Chambers, President-Elect, Globe; Lisa S. Loo, First Vice President, Phoenix; Alex Vakula, Second Vice President, Prescott; Geoffrey M. Trachtenberg, Secretary-Treasurer, Phoenix; Richard D. Coffinger, Glendale; Hon. David G. Derickson, Phoenix; Diane L. Drain, Phoenix; Brian Y. Furuya, Flagstaff; Patrick Greene, Tombstone; Steven A. Hirsch, Phoenix; Melissa S. Ho, Phoenix; James B. Penny, Tucson; Jennifer R. Rebholz, Phoenix; Samuel Saks, Phoenix; Dee-Dee Samet, Tucson; Jimmie Dee Smith, Yuma; Erik J. Stone, Young Lawyers Division; Jeffrey Willis, Tucson; Public Members: Tony Finley, Tucson; Audrey R. Jennings, Scottsdale; Meredith Peabody, Prescott and John J. Sullivan; At-Large Members: David K. Byers, Phoenix; Lori Higuera, Phoenix; and Paul Senseman, Phoenix; Ex-Officio Members: Whitney Cunningham, Immediate Past President; Dean Shirley Mays, Phoenix; Dean Marc L. Miller, Tucson.

EXCUSED ABSENCES: Ex-Officio Member: Dean Douglas Sylvester, Tempe.

OTHERS PRESENT: Nina Benham, Board Services Specialist; Mike Baumstark, Phoenix, alternate for At-Large Member David K. Byers; Rick DeBruhl, Chief Communications Officer; John Furlong, General Counsel/Deputy Director; Martin Gaxiola, Accounting Manager; Kathy Gerhart, CFO; 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; Pat Sallen, Director, Special Services and Ethics-Deputy General Counsel; Carrie Sherman, Director of Board Operations; and Roberta Tepper, Deputy Director Lawyer Assistance Programs.

President Richard Platt called the meeting to order at 10:21 a.m.

PRESIDENT’S REPORT – President Platt

- Reported attending the State Bar of New Mexico’s Annual Convention and serving on a panel regarding admission on motion and reciprocity.

CEO/ED REPORT – John Phelps

- Reported that going forward he will be providing a different format for his CEO Report using a Dashboard. This will provide pertinent information in a concise manner. The financials were presented in a Dashboard format later in the day by CFO Kathy Gerhart.

- Building update on the 2014 flood of one wing of the State Bar office building. The affected staff and two law firms have been returned to their renovated spaces. The membrane around the foundation had been compromised and water was seeping in over time. Trenching around the entire building is complete and a durable material has been put into place to protect the foundation of the building. The 2015 plan to move to xeriscape plan has been moved up and the lawn has been eliminated which will reduce the annual water bill by $10,000.
CONSENT AGENDA

- President Platt asked if anything was to be removed from the Consent Agenda. Richard Coffinger requested the June minutes be removed to make the following addition on page 3447 before the heading “Outgoing Board Members”:
  - **MOTION:** Richard Coffinger moved, Jimmie Smith seconded and the motion carried over a few nays to add: “The Board of Governors is to be notified of any pending litigation against staff members. CEO John Phelps responded that he will notify the Board if any staff member is sued.”
- **MOTION:** By acclamation the following Consent Agenda was approved by the Board to include the June 10, 2014 Board Minutes as amended.
  - Approval of June 10, 2014 Board of Governors Meeting Minutes
  - Approval of Resignations In Good Standing and In Lieu of Reinstatement
  - Approval of Reinstatements:
    - Reinstatement to Practice of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
    - Reinstatement of Member(s) 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.)
  - Approval of Dues 2014 Waivers Requests
  - Approval of Administrative Law Section Amended Bylaws
  - Approval of Business Law Section Amended Bylaws
  - Approval of International Law Section Amended Bylaws

ARIZONA FOUNDATION FOR LEGAL SERVICES & EDUCATION BOARD – President Platt

- Before becoming president, Mr. Platt served on the Foundation’s Board of Directors. As State Bar President, Mr. Platt can no longer serve as a voting member but will serve in an ex-officio position.
- John Sullivan has agreed to serve on the AZFLS&E Board.
- **MOTION:** Richard Platt moved, Sam Saks seconded and the motion carried unanimously to appoint John Sullivan to fill the voting position left by President Platt on the Foundation Board of Directors.

FINANCE AND AUDIT COMMITTEE – Dave Byers, Chair, CFO Kathy Gerhart

- Mr. Byers reported that the Finance Committee will report quarterly to the Board of Governors.
- Annual Surplus projected at $755K surplus vs. a budgeted surplus of $12K due to several factors:
  - Dues penalties revenue is $318K higher than anticipated.
    - Personnel cost are projected to be $380K less than budget for the year including a 3% vacancy savings included in the budgeted cost.
    - Currently the SBA has hired one Bar counsel and is recruiting for three additional positions this year.
    - Legal services for the year are anticipated to be $26K less than budgeted
    - Office Supplies projected a $43K savings for the year due to the work and efforts of Mike Vallone, Procurement and Facilities Manager.
Revenue Sources – 2014 Budget $5.7M (40% Non-Dues) and $8.6 M (60% Dues)
- Operating Expenses - $4.9M (34% Other Operating Expenses) and $8.6 M (60% Personnel) and $857K (6% Depreciation)
- Membership the end of June shows 2% growth.
- CLE revenue is $14k less than budget but expecting by year-end will reach budget for the year.
- Operating expenses in 2014 - $6.7M actual vs. budgeted 2014 $7.4M including personnel costs.
- Convention total revenues – Tucson convention 2011 $476k; vs. 2014 $442k.
- Operating margin 23.7% in 2014 vs. 16.3% in 2011 – last time convention was held in Tucson.


CLIENT PROTECTION FUND – James Penny, CPF Treasurer and BOG member.
- $256k total cash in the money market and checking account.
- $2.8M invested in CD’s.
- Paid out $26k in claims to date this year.
- Pending: two attorneys have claims against them that may each meet the payout cap of $250k.
- Nationally there is an upward trend in claims.
- Expenses are on track and under budget at this reporting.
- The CPF Trustees will be looking at what the Finance Committee comes up with as an investment policy this year. Currently there is not a CPF Investment Policy in place.
- General Counsel John Furlong reported that the Bar has historically combined tax returns for the CPF Revocable Trust. Under Tax Law it is a Grantor Trust and beginning with 2013 a 1041 Form will also be filed.

APPOINTMENTS COMMITTEE – Alex Vakula, Chair
- Currently recruiting for the following positions with a deadline of August 27, 2014. The Board was asked to encourage qualified individuals they know to apply:
  - Arizona Supreme Court Committee on Character and Fitness
  - Arizona Supreme Court Committee on Examinations
  - City of Phoenix Judicial Selection Advisory Board
  - Arizona Foundation for Legal Services & Education (2 openings)

DISCIPLINE OVERSIGHT COMMITTEE (DOC) – Richard Coffinger
- Mr. Coffinger voiced his concern over the President not appointing members to the DOC and the planned sunsetting this committee. Suggested that the topic should be tabled until a full report regarding the current lawyer discipline system is provided to the Board.
- President Platt reminded Mr. Coffinger that this item is on the agenda as information only and that it was not an action item so no motions are appropriate at this time.
- This item will be on the September agenda for the Board of Governors.
- Amy Rehm, Deputy Chief Bar Counsel, reported on behalf of Maret Vessella on the historical timeline of the Court Rules starting in the early 1970’s. Board involvement in the discipline process then was dictated by the Court Rules. Ms. Rehm gave an overview of the DOC and
its changes throughout the years due to changes in the Court Rules and the involvement that was mandated to the State Bar.

- In 1970 there were approximately 300 cases and in 1990’s there were 4,500 cases.
- The DOC was created to oversee the backlog and see that there was a timely due process. Also to understand how the Discipline Department was under resourced.
- DOC meets monthly and discusses statistics and trends.
- The Supreme Court’s Attorney Regulation Advisory Committee is reviewing the new lawyer discipline process for possible enhancements.
- President Platt encouraged continued discussions on what kind of information the Board may need from the Discipline Department for its fiduciary duty.
- August Scope and Operations Committee Agenda item.

MEALS FOR COMMITTEE MEMBERS – Alex Vakula

- Mr. Vakula suggested that when discussions begin on the budget to consider re-establishing funding for lunches for Committee meetings. Members donate their time and should be provided with a lunch he believed.
- There are 28 committees.
- August Scope and Operations Agenda item.

VOLUNTARY MEMBER ASSISTANCE PROGRAM (MAP) – Roberta Tepper

- MAP was and still is administratively housed within the Lawyer Assistance Programs (LAP) of the State Bar.
- History presented to Board in an Information Paper
- Program Review Committee reviewed the program and recommended that funding for the therapeutic portion of the program be discontinued as of January 1, 2015. The Board adopted that recommendation.
- In October 2012, the assessment/therapeutic portion of MAP was outsourced to an employee assistance provider, CorpCare, on a contract basis for both voluntary and mandatory services. On February 1, 2014, the mandatory service portion of the CorpCare contract was discontinued. CorpCare was still available, however, through June 30, 2014, for any State Bar member or their family voluntarily seeking assistance. Members involved in discipline could use the service, but were no longer ordered to do so.
- Based on low usage and service issues with CorpCare, CEO John Phelps decided not to renew the contract and discontinued funding.
- In mid-2013 the Board adopted a new Charter for the State Bar’s Member Assistance Committee (MAC); membership appointed by the President of the Board of Governors.
- Charter directed MAC to create a peer support network of volunteer lawyers who provide support, but not counseling or therapeutic services, to members of the State Bar, judges and their families.
- The Peer Support Network became operational with a day-long training on April 1, 2014.
- Peer Support Network is intended to be a statewide resource comprised of volunteer lawyers and judges who have received training in suicide prevention, alcohol and substance abuse, mental health issues, and active listening skills. At the first training over 30 lawyer volunteers received training and are listed as contacts on the Peer Support page of the MAP portion of the State Bar website, www.azbar.org/peersupport. State Bar members seeking assistance may
contact any member of the network, or may be referred to a specific member if they contact MAP.

- Presently most of the volunteers reside/practice in Maricopa and Pima Counties. A second training, in Tucson, is planned for December in the hope that lawyers from outside of Maricopa and Pima Counties will volunteer and attend.

**ABA COMMISSION ON THE FUTURE OF LEGAL SERVICES** – John Phelps

- Mr. Phelps reported that Chief Justice Scott Bales had been in contact with him regarding ABA President-Elect William Hubbard promoting an effort to assess the future of legal services, particularly the impact of changing technology.
- The ABA is seeking to hold a series of regional “grass roots” meetings. Mr. Hubbard is interested in Arizona possibly hosting such a meeting in Phoenix during the spring of 2015.

**COUNTY BAR REPORTS**

- Steve Hirsch reported on behalf of Maricopa County Bar Association about its continued Centennial celebration with articles in the *Maricopa Lawyer*, the planning of forums, and the Centennial Dinner set for Saturday, September 20, 2014 which will include this year’s Hall of Fame induction ceremony.
  - In 2013 they resumed the practice of holding an annual Bench-Bar Conference. This year’s Conference will be held on September 19 at the Hyatt Regency, Phoenix.
- Dee-Dee Samet reported on behalf of the Pima County Bar Association that this year’s Wild Western Skyline Affair is being held at the Old Tucson Studios on September 6, 2014.

**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.

Respectfully submitted,

Geoffrey M. Trachtenberg
Secretary-Treasurer