

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Grand Hyatt San Antonio
San Antonio, TX
Wednesday, June 22, 2011**

The Board of Directors of the State Bar of Texas met in a regular session on June 22, 2011 at the Grand Hyatt in San Antonio, Texas. Chair of the Board Pablo Almaguer called the meeting to order at 1:30 p.m., and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Reverend Louise Shaw from the Veterans Administration Healthcare System gave the invocation. Everette Hughes led the pledges to the U.S. and Texas flags.

Present:

Board Members: Arnold Aguilar, Chair of the Board Pablo Almaguer, Becky Baskin Ferguson, Tim Belton, Steve Benesh, President-elect Bob Black, Talmage Boston, Roy Brantley, Virginia Campbell, Sylvia Cardona, Warren Cole, Cezy Collins, Allan DuBois, Greg Dykeman, Damon Edwards, Immediate Past Chair David Fisher*, Susan Fisher, Pamela Gilbert, Beverly Godbey, Mike Gregory, Brad Hancock, TYLA Immediate Past President Cori Harbour, John Hatchel, Immediate Past President Roland Johnson, TYLA President-elect Natalie Cobb Koehler, Kyle Lewis, Mike McDonald, Jo Ann Merica, TYLA President Jennifer Evans Morris, Toni Nguyen, Bill Ogden, Yvette Ostolaza, Tommy Proctor, Annette Raggette, Rob Roby, Steve Schechter, Frank Stevenson, President Terry Tottenham, John Trevino, Pat Wolter

Liaisons*: Scotty Holloman, Justice Phil Johnson, Judge Larry Meyers, Judge Steve Smith, Judge Jorge Solis

Section Representatives*: Stewart Gagnon, Luis Garcia, Steve James, John Jansonius, Dan Micciche, Brian Webb

(* = *nonvoting*)

I. CONSENT AGENDA ITEMS

There was one change to the minutes, regarding a typo to the Client Security Fund minimum reserve requirement of \$3 million (instead of \$2 million as it was listed). **Upon motion properly made by Warren Cole and seconded by Yvette Ostolaza, the following actions were taken regarding the Consent Agenda items:**

A. Approval of Minutes:

Approval of minutes of Board meeting conducted on *April 29, 2011*.

B. Approval of 2011-2012 Presidential appointments to the following entities:

1. **College of the State Bar Board**, for three-year terms effective June 1, 2011 through May 31, 2014:

Ernest Aliseda (McAllen)

Chad Baruch (Garland)

Warren Cole (Houston)

Tamara Kurtz (Austin)

Leta Parks (Houston)

Hon. Meca Walker (Houston)

2. **Section Representative to the Board Committee**, for three-year terms effective on the adjournment of Annual Meeting 2011 through the adjournment of Annual Meeting 2014:

Michelle Wong Krause - (Large Sized Section, Dallas)
Susan Nelson - (Medium sized Section, Waco)

3. **State Bar Insurance Trust**, for three-year terms effective July 1, 2011 through June 30, 2014:

Carol Butner (Houston)
Gregory Lloyd Longino (Lufkin)

4. **Texas Access to Justice Commission**, for three-year terms effective June 1, 2011 through May 31, 2014:

Ike Vanden Eykel (Dallas)
Clint Alfred Harbour (Austin)

5. **Texas Access to Justice Foundation**, for three-year terms effective September 1, 2011 through August 31, 2014:

Rep. Pete Gallego (Alpine)
Roland Johnson (Fort Worth)

6. **Texas Board of Legal Specialization**, for three-year terms effective July 1, 2011 through June 30, 2014:

Steven Kiser (Midland)
Judith W. Lenox (Houston)
Maxine Longoria Nash (McAllen)
Mark White (Amarillo)

For an unexpired term effective June 22, 2011 through June 30, 2013:
Stanley Schneider (Houston)

7. **Texas Real Estate Broker/Lawyer Committee**, for six-year term effective September 1, 2011 through August 31, 2017:

John T. (Bo) Blackburn (Austin)

C. Items from Sections/Divisions and Committees:

1. Approval of request by the Government Lawyers Section to change its name to the Government Law Section [**Exhibit A**]¹
2. Approval of request by the Taxation Law Section to amend its bylaws [**Exhibit B**]
3. Approval of request by the Litigation Section to amend its bylaws [**Exhibit C**]

D. Other Items:

1. **Nominating Committee to Select ABA Delegates** (*Chair Roland Johnson*)

Approval of appointment of delegates to the American Bar Association House of Delegates for two-year terms beginning at the conclusion of the 2011 ABA Annual Meeting and expiring at the conclusion of the 2013 ABA Annual Meeting:

Delegates:
Terry Tottenham (Austin)
Buck Files (Tyler)

Harriet Miers (Dallas)
Natasha Brooks (Midland), Young Lawyer Designate

Alternates:

Esther Cortez (Richardson)

Jay E. Ray (Dallas)

2. Approval of recipient for the Community Leadership Award to be presented at the Annual Meeting

Houston Bar Association

II. REPORTS

A. Report from the Chair of the Board: Chair of the Board Pablo Almaguer recognized the work of the outgoing third-year directors during their term on the Board. Chair Almaguer presented Pat Wolter with the Outstanding Third Year Director Award.

B. Report from the President: President Terry Tottenham thanked the State Bar staff for their hard work over the past year, especially during the legislative session. President Tottenham noted that the deadline for nominations for LeadershipSBOT is July 1. Texas Lawyers for Texas Veterans continues to be a success. President Tottenham introduced veteran Everette Hughes and his lawyer, Karen Monsen from San Antonio, who both spoke on Mr. Hughes' story as a homeless veteran and how he feels Ms. Monsen's legal help saved his life.

1) **Closed Session**: At 2:03p.m., Chair Almaguer announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.074 for the purpose of discussing the evaluation, duties and compensation of the Executive Director.

2) **Open Session**: Upon return to open session at 2:10p.m., Chair Almaguer announced that only matters relating to compensation of the Executive Director were discussed. No action was taken in closed session.

In open session, Terry Tottenham moved for approval of the recommendations discussed during the close session and approval of a 5.3% salary increase for Executive Director Michelle Hunter; Warren Cole seconded. Motion carried.

C. Report from the President-elect: President-elect Bob Black thanked the Board for their hard work and the officers for their leadership over the past year. President-elect Black reported on the appointment process for standing committees, and the most recent version of the appointments was handed out. **[Exhibit D]** President-elect Black also noted that the FY2011-12 Budget order has been approved by the Supreme Court.

D. Report from the Immediate Past President: Immediate Past President Roland Johnson echoed the comments that were made on all the hard work the Board did over the past year.

E. Texas Young Lawyers Association: TYLA President Jennifer Evans Morris reported on TYLA activities including Office-In-A-Flash, "The Little Voice" public service project, "R-U-Safe", Partnering for Pro Bono, and Texas Lawyers for Texas Veterans.

F. Commission for Lawyer Discipline/Chief Disciplinary Counsel Update: Betty Blackwell reported on end-of-year grievance statistics, attorney's fees collections, the grievance referral program, and prevention efforts for impaired respondent rehab. President Tottenham presented Betty Blackwell with an award for her service as Chair to the Commission. **[Exhibit E]**

G. Administration Committee:

1) **Closed Session**: At 2:34p.m., Chair Almaguer announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.071 for the purpose of consultation with legal counsel concerning pending or contemplated litigation regarding employment matters, including *Miller v. The State Bar of Texas*, and litigation and/or settlement in relation to changes to the State Bar History & Preservation Committee.

2) **Open Session**: Upon return to open session at 3:10p.m., Chair Almaguer announced that only matters relating to consultations with legal counsel concerning pending or contemplated litigation regarding employment matters, including *Miller v. The State Bar of Texas*, and litigation and/or settlement in relation to changes to the State Bar History & Preservation Committee, were discussed. No action was taken in closed session.

Justice Phil Johnson left the room during the closed session.

In open session, President-elect Bob Black moved for approval of the recommendations of the Committee Review Task Force to dissolve the State Bar History & Preservation Standing Committee, effective at the conclusion on the 2011 Annual Meeting; Roy Brantley seconded. Motion carried. [Exhibit F]

H. Performance Measures and Strategic Planning: Susan Fisher reported that the Board approved the revised strategic plan at the April Board meeting, and the next step, as required by the State Bar Act, is to adopt the revised performance measures based on the strategic plan. State Bar staff proposed revisions to the performance measures, which the Strategic Planning subcommittee reviewed and unanimously approved with input.

On behalf of the subcommittee, Fisher moved for approval of the proposed revisions to the Performance Measures based on the revised Strategic Plan; no second needed. Motion carried. [Exhibit G]

I. Audit and Finance Committee: Warren Cole reported that the general fund had a net excess of revenues over expenditures of \$3,030,254, which resulted in a positive net overall variance of \$1,932,504 or 176% at this point in the fiscal year. For the period ending April 30, 2011, TexasBarCLE's net activity was over its budget target by \$1,140,623 or 40%. The financial audit will be conducted by Maxwell Locke & Ritter LLP, and is scheduled to begin in August. The internal control audit will be conducted by Padgett, Stratemann & Co., LLP and will begin immediately after the financial audit field work is completed. **[Exhibit H]**

J. Nominations & Elections Subcommittee: Immediate Past President Roland Johnson outlined the proposed revisions to the Policy Manual concerning elections and a stipend for the President-elect. Immediate Past President Johnson noted that the issue of social media in elections will be looked at by the subcommittee in the coming year. Brian Webb asked a question about the section concerning the district director campaign, and suggested that a portion of Section 1.03.08(B) concerning the prohibition of the use of personal websites or web pages for campaign purposes be removed, and give it to the incoming N & E Subcommittee for their review.

On behalf of the subcommittee, Immediate Past President Johnson moved for approval of the proposed revisions to Policy Manual Section 1.03 concerning election of elected directors, including an amendment to withdraw Part (1) of Section 1.03.08(B), and to Section 1.23 concerning voting in State Bar elections and TYLA elections, Section 2.01 concerning election of President-elect, and Section 3.07.07 concerning stipend for Administrative Expenses; no second needed. Motion carried. [Exhibit I]

K. Policy Manual Subcommittee: Arnold Aguilar reported on the changes to policy manual provisions concerning restrictions and removal of grievance committee members, and disqualification of Officers or Board members as counsel in disciplinary proceedings.

On behalf of the subcommittee, Arnold Aguilar moved for approval of the proposed amendments to the Policy Manual provisions and sections in Part VI Disciplinary System; Section 6.04.11 concerning removal

of grievance committee members, Section 6.04.10 concerning restrictions, and Section 6.05.01 disqualification of Officer or Board member as counsel; no second needed. Motion carried. [Exhibit J]

L. Client Security Fund Subcommittee: John Jansonius reported that the subcommittee received over 130 applications, and approved 90 which amounts to \$745,000 being paid out. There is \$600,000 left in the \$3 million reserve, so the fund is on solid financial ground.

M. Appeals-Grants Review Subcommittee: Kyle Lewis reported on the three appeals the subcommittee heard from decisions of the MCLE Committee, noting that the Policy Manual provides that the subcommittee apply a “substantial evidence” standard when hearing appeals. Lewis noted that for two of the appeals, the subcommittee found that MCLE’s decision was supported by substantial evidence. For the third appeal, the subcommittee found that the appellant carried its burden of proof as to one hour of CLE accreditation, but failed to carry its burden of proof for an additional hour of CLE.

On behalf of the subcommittee, Kyle Lewis moved for approval of the subcommittee’s recommendations on the following appeals:

- 1) **Affirm the decision of the MCLE Committee in the matter of the denial of individual accreditation for online CLE activity for Mr. Williard Hall; no second needed. Motion carried.**
- 2) **Affirm the decision of the MCLE Committee in the matter of the denial of the waiver of the reinstatement for fee for Mr. Charles Septowski; no second needed. Motion carried.**
- 3) **Affirm in part and reverse in part the decision of the MCLE Committee in the matter of the application for accreditation for CLE activity submitted by King & Spalding; no second needed. Motion carried. [Exhibit K]**

N. Member Services and Education: Talmage Boston reported that orientation for new directors was held yesterday and today, and the orientation was a success. Steve Benesh reported that the Technology Oversight subcommittee approved moving forward with New Dawn Technologies for the acquisition of a new case management system as outlined in the Business Technology Plan. The new case management system will replace the 10yr old, out-dated system currently in use in the Chief Disciplinary Counsel’s office.

On behalf of the subcommittee, Steve Benesh moved for approval of, subject to final review by legal counsel, the State Bar contract with New Dawn Technologies in an amount not to exceed \$520,000 for the purchase and implementation of a new case management system for the Chief Disciplinary Counsel’s office; no second needed. Motion carried.

O. Section Representatives to the Board: Dan Micciche reported on the pro bono contributions of Sections to the Texas Access to Justice Foundation.

P. Supreme Court Liaison: Justice Phil Johnson reported that the Court has been very involved with the legislature and the focus has been on access to justice.

Q. Federal Judicial Liaison: Judge Solis reported on the budget, noting that the Clerk’s office may likely be affected by funding. Judge Solis also reported on the various vacancies in the northern, eastern, southern, and western districts.

R. Judicial Section Liaison: Judge Steve Smith reported on the past legislative year, noting that it has been a challenging one.

S. Executive Director: Michelle Hunter introduced Trish McAllister, Executive Director of the Access to Justice Commission. Hunter also presented Erica Rodriguez from the MCLE department with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 4:26p.m. **[Exhibit L]**²

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- ¹ **Exhibits A through D** are available at www.texasbar.com/bodcentral under Meeting Agendas and Minutes.
- ² **Exhibit L** is the State Bar Committee and Section End of Year Reports and is for information only.