

**OFFICIAL MINUTES
STATE BAR OF TEXAS
EXECUTIVE COMMITTEE MEETING
Texas Law Center
Austin, TX
January 9, 2014**

The Executive Committee met on January 9, 2014 in Austin at the Texas Law Center. President Lisa Tatum called the meeting to order at 10:30am, and Executive Director Michelle Hunter called the roll.

Present: President-elect Trey Apffel, Robert Aldrich, Jaime Balli, TYLA President Kristy Blanchard, TYLA President-elect Rebekah Steely Brooker, Immediate Past President Buck Files, Laura Gibson, Cori Harbour-Valdez, Tim Kelly, Roger Key, Gary Nickelson*, Scott Rothenberg*, Immediate Past Chair of the Board Frank Stevenson*, President Lisa M. Tatum, Chair of the Board Cindy Tisdale

Participating via teleconference: David Alders, John Kazen

**Nonvoting member*

I. APPROVAL OF MINUTES

Upon motion properly made by Laura Gibson and seconded by Tim Kelly, the minutes of the September 5, 2013 Executive Committee meeting were approved as distributed.

II. REPORTS

A. Report from the President:

President Lisa Tatum reported that she attended the Texas Minority Counsel Program in Dallas in October, where she helped facilitate the Texas Diversity Roundtable. She also attended the ABOTA *Open Forum for Civic Education for Our Youth*, where she presented *I was the First. Vote for Me!*, a civics education program that introduces Texas elementary students to historic firsts who are part of the TEKS standards. The program has been presented by the Law Related Education team to more than 4,778 teachers at 119 teacher seminars, reaching more than 196,000 students. President Tatum also noted that 72 Care Kits have been distributed to attorneys across Texas, filled with all the tools necessary to host a free legal advice clinic. The Austin Black Lawyers Association held a successful free legal clinic on November 9, and the San Antonio Young Lawyers Association is in the process of planning their first clinic. The State Bar is holding another free Solo and Small Firm CLE in Amarillo on April 23rd because it was so well-received. The Task Force on Aging Lawyer Issues continues to look at concerns associated with aging lawyers as they relate to the practice of law and interaction with the public. The task force is continuing its work and is looking at developing educational components for lawyers, judges, law partners, and family members on how to handle attorneys that are experiencing issues with a loss of cognitive abilities.

B. Report from the President-elect:

President-elect Apffel reported that in the upcoming months, he will be working with the communications division to improve and expand our current State Bar communications efforts. This will include the launch of the new mobile friendly site for texasbar.com and Texas Bar Connect.

President-elect Apffel reported that the Budget committee met on December 9, and the committee approved the FY 14-15 budget as presented. Some highlights of the proposed budget include a \$386,454 annual transfer to the Capital Equipment Replacement plan; a \$400,000 annual transfer to the Technology Fund; \$300,000 annual transfer to the Client Security Fund; and a \$350,000 prior commitment for the Student Loan Repayment

Assistance Program (the fourth payment of five payments). The audit report shows the total amount available for Board commitment is \$2.6 million. The Budget Committee plans to make the following recommendations to the Board for commitment of the available funds; a \$35,000 proposed increase to the minimum reserve in order to maintain the minimum reserve at the current level of \$9 million; an additional \$1.2 million to the Client Security Fund in order to pay claims related to the lawyer misconduct case of attorney Thomas Corea; \$200,000 for presidential initiatives for FY14-15; and a \$1 million commitment to the Technology Fund to be used to fund a number technology issues. Additionally, another \$95,000 commitment to continue the Alternative Careers Project; as well as \$30,000 for a compensation analysis survey of employee positions and a \$40,000 commitment to the State Bar's Law Related Education Department to update the website.

On behalf of the Budget Committee, President-elect Apffel moved for approval of the SBOT FY 2014-15 proposed budget for publication in the March 2014 issue of the *Texas Bar Journal*; no second needed. Motion carried.

C. Report from the Chair of the Board:

Chair Cindy Tisdale reported that district letters from Board members were sent in November and the response has been tremendous. Numerous directors and staff members have received inquiries and requests for additional information. The next correspondence from the Board to their districts will be an e-blast, projected to be sent in early March. Chair Tisdale reported that directors are doing a great job of asking for help from the communications team for handouts and special district-specific information for local presentations.

D. Report from the Immediate Past President:

Immediate Past President Buck Files reported that Judge Barbara Hervey of the Texas Court of Criminal Appeals would like to do a second DVD project on Brady issues and the wrongful convictions of individuals. Copies of the Texas Lawyers Creed have been sent to the Board, judges, and are available for free to members.

E. Administration Committee:

John Kazen reported on the career transition project, noting that additional free in-person seminars have been scheduled for February 19 in Dallas and April/May in San Marcos. The free online version of the seminar will be available by February 1. Kazen also noted that three one-to-one coaching consultations with 50 bar members on pursuing alternative careers with additional consultations have been planned for registrants of the San Marcos and Dallas seminars. As President-elect Apffel mentioned, \$95,000 is being recommended in the proposed budget for next fiscal year to continue the program.

F. Audit & Finance Committee:

Roger Key reported that the actual amount of net revenues over expenditures for the period ending November 30, 2013 was approximately \$1.2 million, which resulted in a positive net revenue over expenditure variance of \$418,000. Padgett, Stratemann & Co. has completed the FY 2012-13 financial audit of the State Bar, and it resulted in the Bar receiving an "unqualified opinion", the best financial audit opinion the State Bar can receive. The Audit & Finance Committee will make a recommendation at the Board meeting regarding the acceptance of the financial audit report.

The CPA firm of Maxwell Locke & Ritter has completed the FY 2012-13 internal control audit, and suggestions were made that will be implemented in the future: 1) instituting stronger controls over the processes the State Bar uses for refunding credit card transactions; 2) a recommendation involving the 8 Sections that do not currently take advantage of the State Bar's offer of free accounting management services; 3) implementing a process whereby software access granted to State Bar staff members is reviewed on an annual basis; and 4) the MCLE Department using an endorsement stamp on checks received for deposit. Maxwell Locke & Ritter will make a

presentation of the internal control audit report at the Audit & Finance Committee's meeting, and the committee will make a recommendation to the Board regarding the acceptance of the internal audit report.

G. DCAAP/Client Security Fund Subcommittees:

Judge Jo Ann Reyes (via teleconference) reported that this year, the Client Security Fund is facing a shortage of funds due in large part because of claims associated with the theft of client settlement monies by a Dallas lawyer named Thomas Corea. To date, a total of 46 Corea-related applications have been filed with the Fund with an additional 19 victims on the prosecutor's list who are anticipated to also file claims. So far, \$283,775 has been paid or approved for Corea victims. Of this, \$166,184 is unpaid, because the subcommittee determined that it would be unable to cover all claims this year without additional funds. There is an additional \$152,842 in non-Corea claims approved at the September meeting that is also still unpaid. At the January Board meeting, the subcommittee will be recommending an amendment that Section 3.08.02 (D)(1) of the Board Policy Manual be amended to allow a reduction in the amount required to be maintained in the corpus of the Fund from \$3 million to \$2 million. The funds made available by this change will allow the subcommittee to pay all of the claims it anticipates during 2013-14. The total claims are anticipated to be at \$1.273 million, and there is currently \$428,000 available for payment.

Cindy Tisdale moved for approval of the proposed changed to the Board Policy Manual regarding corpus of the Client Security Fund; Jaime Balli seconded. Motion carried.

H. Nominations and Elections Subcommittee:

Immediate Past Chair of the Board Frank Stevenson reported that the Nominations and Elections subcommittee interviewed six highly qualified individuals to be considered as potential nominees for President-elect, and the subcommittee voted to select Allan DuBois of San Antonio and Beverly Godbey of Dallas to be considered as potential nominees for President-elect in this open-county year.

Immediate Past President Buck Files moved for approval of Allan DuBois and Beverly Godbey as the State Bar candidates for President-elect for the 2014 election; no second needed. Motion carried.

Immediate Past Chair Stevenson noted that there are limitations for what Board members can do in the campaigns for president-elect, and that board members may not endorse, support, or participate in the campaigns in their official capacities. Additionally, there are 10 elected members of the Board whose terms are expiring in June. The elections for President-elect and district directors begin on April 1st and end April 30th. And finally, the subcommittee considered proposed revisions to the policy manual President-elect election provisions submitted by a current director. The proposed revisions would require the automatic addition of a petition candidate to the ballot who obtains 1000 signatures on the petition and has served on two State Bar standing committees. With the assistance of legal counsel, the subcommittee determined that the proposed amendments would be in conflict with the State Bar Act and State Bar Rules, and therefore were impermissible revisions to the Policy Manual.

I. Ad Hoc Committee to Select Minority Directors:

Jaime Balli reported that the Ad Hoc Committee to Select Minority Directors selects potential nominees to fill the minority director positions on the Board, and will make a recommendation to President Lisa Tatum for appointment. The Committee received 13 nominations for consideration, and will interview six nominees on January 30th. The committee will then recommend two nominees to President Tatum for her to appoint one to serve as minority director, beginning at the Annual Meeting in June, to replace Judge Jo Ann Reyes whose term is expiring. The Board will vote to confirm the appointment at the April Board meeting.

J. MCLE Committee:

Trey Bergmann reported on the proposed changes to the MCLE regulations. One proposed change involves faculty exemption, replacing the current credit allowance added to the attorney's record with an actual exemption. The change will simplify administrative and IT processes. The other proposed changes involve exemptions for local and district bar associations and government agencies from accredited sponsor application and renewal fees, and assessing a \$200 fee for application for accredited sponsor status as well as an annual \$200 renewal fee to maintain accredited sponsor status. The changes would be effective June 1, 2014.

Tim Kelly moved for approval of the amendments to MCLE Regulations, Section 5.1, 5.1.1 – Faculty Exemptions; Sections 10.3.2 and 10.3.5 Accredited Sponsor Application and Renewal Fees, and Section 10.8.5 regarding exemptions to the accredited sponsor fee; Cindy Tisdale seconded. Motion carried.

K. Member Services and Education Committee:

Gary Nickelson reported that the Appeals/Grant Review subcommittee received requests from the State Bar Disability Issues Committee and Law Focused Education Inc. to seek outside funding from the Texas Bar Foundation for their public service initiatives. The committee approved both of these requests to seek outside funding. The Committee also received three appeals of decisions made by the Texas Board of Legal Specialization. The committee affirmed the TBLS decisions on each of these appeals. Nickelson reported that the Professional Development Subcommittee will be meeting on Thursday, January 23rd to hear staff reports and to review TexasBarCLE and TexasBarBooks draft budgets for 2014-15. Nickelson also reported that the Technology Oversight subcommittee met on December 13th and received a briefing on current and planned technology projects.

Tim Kelly reported that the State Bar of Texas Insurance Trust has contracted with Member Benefits Inc. to sell products through the Texas Bar Private Insurance Exchange. Member Benefits Inc. will also assist in the transition of terminated individual health plans and group plans to ACA-compliant plans through the Exchange. Kelly also reported on the future of the Insurance Trust, noting that at the January Board meeting, the declaration of trust between the Trust and the State Bar will be amended to reduce the number of trustees and to require that all new Trustees be members of the State Bar Board. New trustees will consider proposals from Member Benefits, Inc. to change plans and utilize Premium Stabilization Funds, and in the future, they may consider proposals to eliminate the need for the Trust.

President Lisa Tatum made remarks about the three members of the Board, Tim Kelly, David Chamberlain, and Michele Wong Krause, who will be appointed at the January Board meeting as new trustees of the State Bar of Texas Insurance Trust. She noted that each of them are current members of the Insurance/Member Benefits Subcommittee and have been instrumental in the creation of the private insurance exchange.

President Lisa Tatum moved for approval of the appointment of David Chamberlain (Austin), Tim Kelly (Austin), and Michele Wong Krause (Dallas) as new trustees of the State Bar of Texas Insurance Trust, subject to the approval of the Board on January 24th, 2014; Cori Harbour-Valdez seconded. Motion carried.

L. TYLA:

TYLA President Kristy Blanchard reported there has been a great response to the social media guides and malpractice guides. The annual diversity dinner will be held this month in Fort Worth. Blanchard also reported on upcoming TYLA project rollouts, tool kits, and CLE's, and the upcoming TYLA Board meeting in Fort Worth.

M. Executive Director:

Michelle Hunter reported that approximately \$2000 was raised as a result of employees donating money for jeans day to support access to justice efforts in Texas.

There being no further business, the meeting was adjourned at 11:42 a.m.