

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Radisson Hill Country Resort & Spa - Ballroom
San Antonio, Texas
April 25, 2008**

The Board of Directors of the State Bar of Texas met in a regular session on April 25, 2008 at the Radisson Hill Country Resort in San Antonio, Texas. Chair Travis Vanderpool called the meeting to order at 9:00am, and Executive Director John Edwards called the roll. A quorum of voting Board members was present. Chaplain Lorraine K. Potter, Major General, USAF retired, gave the invocation. Roger "Willi" Williamson lead the pledge to the U.S. flag, and David Gonzalez led the pledge to the Texas flag.

Present:

Board Members: Ernest "Ernie" Aliseda, Deborah Bullion, Sylvia Cardona, Theresa Chang, Michelle Cheng, Guy Choate, Janna Clarke, Karin R. Crump, Immediate Past President Martha S. Dickie, John D. Ellis, Jr., President-elect Harper Estes, Edward Fernandes, David Fisher, Curtis Flowers, Deborah Gagliardi, Rodolfo Garcia, Lloyd M. Garland, M.D., David O. Gonzalez, Van Hilley, Randy Howry, Rhonda F. Hunter, Bill Kroger, Rob Kyker, Michael D. Marin, Robert D. Miller, Timothy W. Mountz, J. Goodwille Pierre, Rocky Robinson, Mark Sales, Joe Shannon, Jr., John D. Sloan Jr., Michael C. Smith, Randy O. Sorrels, Sandra L. Stewart, Lisa Tatum, G. Allan Van Fleet, Chair of the Board Travis Vanderpool, President Gib Walton, Barbara Young

Liaisons*: Judge Lawrence E. Meyers, R.E. Thompson, Justice Dale Wainwright

Section Representatives*: Chad Baruch, Steve Bolden, Warren Cole, James Higdon, Carolyn F. Moore

Ex Officio*: Executive Director John Edwards, Deputy Executive Director Michelle Hunter, Chief Disciplinary Counsel John A. Neal, General Counsel Elizabeth Rogers

Excused Absences: Pat Allison, Glenn Ballard, Jr., Cynthia Barela, Immediate Past Chair Robert A. Black, Lamont Jefferson, William W. Miller, Jr., Judge Brian Quinn, Elizabeth Rogers, Henry Simpson, Judge Sam Sparks, G. Thomas Vick, Jr.

(* = nonvoting)

I. CONSENT AGENDA ITEMS:

Upon motion properly made by Dr. Lloyd Garland and seconded by Tim Mountz, the following items on the Consent Agenda were approved:

C1. APPROVAL OF MINUTES:

- a. Approval of minutes of Board meetings conducted on *January 25, 2008*
- b. Ratification of actions taken at the following Executive Committee meetings:
 - 1) **April 3, 2008:** Approved minutes of the January 10, 2008 Executive Committee meeting

C2. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following entities:

- a. **Commission for Lawyer Discipline:**
 - 1) for terms September 1, 2008 through August 31, 2009:

Chair: Betty Blackwell (Austin)
Vice Chair: Orrin Harrison (Dallas)

2) for three-year terms effective September 1, 2008 through August 31, 2011:

Betty Blackwell (Austin)
Charles Schwartz (Houston)

- b. **Law Focused Education, Inc.**, for two-year terms effective June 2008 through May 2010:
Ted Kerr (Midland)
Terry Marrs (Bronte)
Brenda Richardson (Corpus Christi)
Drew Yoder (Houston)
Mario Martinez (El Paso)
Gracie Alamia Minyard (McAllen)
Steve Gwinn (Dallas)
Brad Gibson (Midland)
Lisa Sanders Richardson (Round Rock)
Samuel Milledge (Houston)
Karen Wiggins (Dallas)
Paula Wyatt (Corpus Christi)
- c. **Texas Legal Protection Plan**, for three-year terms effective June 1, 2008 through May 31, 2011:
Dan Boulware (Cleburne)
Thomas H. Veitch (San Antonio)
- d. **Texas RioGrande Legal Aid** for two year term effective January 1, 2008 through December 31, 2009:
Elizabeth Garcia (Edinburg)
- e. **2007-08 Special Committee to Nominate ABA Delegates**, to replace appointment of Kelly Frels:
Allan Van Fleet (Houston)
- f. **Resolutions Committee**, for terms expiring at the 2008 Annual Meeting:
- 1) Officers of the Annual Meeting Resolutions Committee:
Chair: SBOT Immediate Past Chair of the Board
- Bob Black (Beaumont)
Vice-Chair: TYLA Chair
- Mary Reveles (Richmond)
Secretary: Local Bar Leaders Cmte Chair
- Michael Truncale (Beaumont)
Parliamentarian: Michael C. Smith (Marshall)
- 2) Review Committee:
Bob Black (Beaumont)
Timothy Mountz (Dallas)
Lamont Jefferson (San Antonio)

C3. ITEMS FROM THE PRESIDENT-ELECT:

- a. Approval of State Bar committee chairs to serve during the year 2008-09 per State Bar Rules, Art. VIII, Section 1B [Exhibit A]

C4. **ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:**

- a. Approval of request by the State Bar Juvenile Law Section to amend its bylaws **[Exhibit B]**

C5. **OTHER ITEMS**

- a. Approval of the 2008-2009 Preliminary Calendar
- b. Approval of recipients for the pro bono awards to be presented at the Annual Meeting:
- 1) **Pro Bono Award: Community Justice Program (Edinburg)**
 - 2) **Frank J. Scurlock Award: Jane K. Swanson (The Woodlands)**
 - 3) **The J. Chrys Dougherty Legal Services Award: Rodney L. Nelson (Texas RioGrande Legal Aid, Austin)**
 - 4) **W. Frank Newton Award: Haynes and Boone, LLP (Dallas)**
- c. Approval of recipients for the Nancy Garms Memorial Award to be presented at the Annual Meeting:
- Karin R. Crump (Austin)**
- d. Approval of resolutions honoring: **[Exhibit C]**
- 1) **U.S. District Judge Ricardo Hinojosa (Brownsville)**
 - 2) **Michael J. Willson (Midland)**
 - 3) **Justice Phylis J. Speedlin and Judge Karen Pozza (San Antonio)**
 - 4) **Peggy Butler (San Antonio)**
 - 5) **U.S. Magistrate Judge Pam Mathy (San Antonio)**

II. **REPORTS:**

A. **Report from the President:**

President Walton introduced David Beck, chair of the Insurance Disclosure Task Force, who discussed the task force's work on the issue of whether Texas lawyers should or should not be required to disclose to clients their professional liability insurance coverage, if any. Beck reported that approximately 22 states have adopted a professional liability rule, four states are considering it, and one state requires that lawyers carry the insurance. In an effort to obtain feedback on this issue, Beck indicated that the task force conducted three surveys, an e-mail and phone survey of Texas Lawyers, and a phone survey of the public. The results indicated that the majority of Texas lawyers are against disclosure, and the majority of the public are in favor of insurance disclosure. Additionally, the public was in favor of other professionals disclosing. President Walton noted that a recommendation will be brought to the Board at its June meeting.

President Walton asked the Board to review the list of radio stations that received radio spots for the public service announcements, and contact anyone they might know on the list for feedback and to encourage them to play the announcements. The YouTube contest was a success, and the video most viewed was the one that did not win, "Justice for Chocolate" by Christopher Carlin. The animations for the "Let's Do Justice for Texas" initiative are being developed with a grant from the Texas Bar Foundation, and all 12 of them are expected to be completed by the end of the fiscal year.

President Walton reported on the FLDS situation in Eldorado, noting that it was "Let's Do Justice for Texas" at work, and the justice system worked the way it was supposed to. Walton thanked everyone involved, and a clip of the SBOT/Eldorado media coverage was shown. Guy Choate discussed the FLDS compound and the process of media inquires and the coordination of efforts by the attorney ad litem.

President Walton spoke on the AT&T issue concerning the placement of the "Attorney Referral Services" headings in the Yellow Pages Directory. In November, AT&T notified the SBOT of their decision to relocate the heading for "Attorney Referral Services" behind the "Attorney" heading in their yellow pages. Elizabeth Rogers reported that the SBOT has been negotiating with AT&T to keep the "Attorney Referral Services" heading in front of the "Attorneys" heading, and also whether AT&T can incorporate a cross-reference to the "Attorney Referral Services" heading to direct consumers to the new location of the heading (in the event AT&T will not keep the "Attorneys Referral Services" heading in front of the "Attorneys" heading.) Tim Mountz reported on the potential negative impact that could occur as a result of the new Attorney Referral Services heading placement and that several Local Bar Referral Services requested support from the SBOT Board in seeking a reversal of the AT&T decision. President Walton has written a letter to send to AT&T asking them to reconsider their decision and offered to meet with them to resolve this issue. [Exhibit D]

President Walton moved for approval of the appointment of Pablo Almaguer (McAllen) as a minority member to the Board of Directors, for a three-year term effective at the Annual meeting of 2008 and expiring at Annual Meeting 2011; Goodwille Pierre seconded. Motion carried.

President Walton noted that the Texas Judicial Foundation Board asked that the State Bar President make three appointments to their Board for three year terms, and those appointments are being presented for approval.

1) President Walton moved for approval of State Bar President making appointments to the Texas Judicial Foundation Board for three year terms; Deborah Bullion seconded. Motion carried.

2) President Walton moved for approval of the appointments of Dr. Lloyd Garland (Lubbock), Sandra Rodriguez (Austin), and Steven Kiser (Midland) to the Texas Judicial Foundation Board for three year terms; Barbara Young seconded. Motion carried.

B. Court of Criminal Appeals Liaison:

Judge Larry Meyers noted that the Supreme Court recently ruled on a death penalty case, but that executions have been delayed recently. Judge Meyers introduced Louise Pearson as Clerk of Court.

C. Report from the President-elect:

President-elect Harper Estes reported on his Leadership Academy initiative for next year and noted that the You Tube contest will continue. Estes noted that the public budget hearing was held and written comments were considered regarding conducting the pro bono survey every other year. The budget is unchanged from the one approved by the Board in January, and the budget presentation to the Supreme Court is scheduled for May 28.

On behalf of the subcommittee, President-elect Estes moved for approval of the 2008-09 budget for presentation to the Supreme Court of Texas; no second needed. Motion carried. [Exhibit E]

D. Report from the Immediate Past President:

Immediate Past President Martha Dickie reported on ABA days, and noted that Congressman Ted Poe is planning to write a letter this year in support of legal services. Dickie noted that the Court Administration Task Force has 60 voting members, plus 15 liaisons. Dickie Hile, Carl Reynolds and Tom Cunningham are working with their subgroups, and the task force will most likely have a report to present to the Board in September.

Dickie also reported that she has been working with Paul Clote on an agreement between SBOT and the Board of Disciplinary Appeals, and it is being presented to the Board for approval.

Immediate Past President Dickie moved for approval of the BODA Agreement; Randy Howry seconded. Motion carried. [Exhibit F]

Dickie also reported that the election began on April 1, and the latest returns show 18,422 attorneys have voted, with Fort Worth having the highest percentage of voting members. The election ends on April 30.

E. Chair of the Board Elections:

After the ballots were counted, Chair Vanderpool announced that Joe Shannon has been named the 2008-09 Chair of the Board.

F. Discipline/Client Attorney Assistance Program Committee:

Bob Miller reported on the two additional rule changes to the Texas Rules of Disciplinary Procedure that go along with the rule amendments passed in January. Rule 15.06 follows the self reporting rule in defining what the time limitations are for self reporting, and Rule 1.06A involves a definitional change so that Procedure rules are consistent with the changes made in the State Bar Rules.

On behalf of the DCAAP Committee, Miller moved for approval of the proposed amendments to Rule 15.06 and Rule 1.06 of the Texas Rules of Disciplinary Procedure; no second needed. Motion carried. [Exhibit G]

G. Commission for Lawyer Discipline/CDC:

Betty Blackwell reported on the representation of lawyers and public members on the Commission, and noted that Laura Popp will replace Steve Moyik as Austin Field Counsel. With the help of Chris Long, the grievance referral program has 40 active cases currently. Blackwell asked the Board for help in making Grievance Committee appointments by May 1. [Exhibit H]

H. TYLA:

TYLA President-elect Sylvia Cardona reported on the recent activities of TYLA, including the three videos produced for educating citizens and students about the law; "Justice 101: The Client's Guide to Litigation", "Safeguarding our Seniors: Recognizing and Reporting Elder Abuse", and "You're Hired! Now What? Knowing Your Legal Rights on Your First Job." The TYLA e-news bulletin reaches 21,000 lawyers, and they have seven new informational guide pamphlets available. The National Trial Competition was held in Austin on March 27-29 and was a huge success with 28 teams and 26 judges. 10 minute mentor also continues to be a success.

I. Administration Committee:

Rocky Robinson highlighted the various activities of the subcommittees, including the Advisor Coordination subcommittee and their efforts in ways to foster participation of Board members at Standing Committee and Section meetings. The Contracts subcommittee reviewed and provided advice to the General Counsel for the Law Center renovation project, and the Employment/Salary Evaluation subcommittee is working on a compensation study of all positions, which will include a consultant recommendation at the June Board meeting. Robinson also discussed the Facilities & Equipment subcommittee's work on the front entrance relocation and lobby remodel, the capital equipment replacement fund, the ongoing parking study, and floors 3-6 renovation.

On behalf of the Committee, Robinson moved for approval of the Capital Equipment Replacement Fund, with an initial funding amount for FY 2009-10 of \$483,067, and subject to any necessary or

required Policy Manual revisions, all earnings realized in the fund remain in the fund; no second needed. Motion carried. [Exhibit I]

Robinson noted that the Performance Measures report was approved by the Performance Measures Subcommittee and by the Administration Committee the previous day.

On behalf of the Committee, Robinson moved for approval of the SBOT Performance Measures Plan; no second needed. Motion carried. [Exhibit J]

J. Audit & Finance Committee:

Bill Kroger reported that the General Fund has positive net revenues over expenditures of almost \$3.2 million, and actual net revenues for the period ending February 2008 represent a \$1.24 million positive variance over amounts budgeted, which includes a 6% favorable net variance from TexasBarCLE. The third quarter investment report from PFM Assets Management LLC was approved by the Audit & Finance Committee the day before. The internal audit plan has been revised to use a three-year rotation instead of a four-year rotation to ensure that the rotation coincides with the length of time a State Bar Board member serves on the Board. Kroger also noted that the two-year contract with PFM Asset Management Services LLC as investment manager will expire on May 31, 2008, and based on PFM's performance for the past 22 months, the Committee recommends a one-year extension of their contract.

On behalf of the Committee, Kroger moved for approval of the following:

1) Acceptance of the quarterly investment report for the period ending February 29, 2008; no second needed. Motion carried.

2) Acceptance of the revised internal audit plan; no second needed. Motion carried.

3) Acceptance of one-year extension of PFM Group's contract for investment management services; no second needed. Motion carried. [Exhibit K]

K. Client Security Fund Subcommittee:

Michelle Cheng reported that the total dollar amount of claims approved in 2007 was \$311,331.53. Several recommendations have been made regarding the composition of the subcommittee, including maintaining the size of the subcommittee at or near its present size (i.e., 10 members), maintaining it as a "Board Committee", and assigning one additional staff person to assist in analyzing, presenting, and processing claims.

On behalf of the subcommittee, Cheng moved for approval of the revision to Policy Manual section 3.08.02 regarding Client Security Fund Payments from the Fund and fund corpus; no second needed. Motion carried. [Exhibit L]

L. Member Services and Education:

Deborah Bullion reported that the new Directors Orientation is May 30-31 in Austin, and will begin with a tour of the Law Center on May 30 and the Supreme Court Historical Society annual dinner that evening. Van Hilley reported on the joint meeting of the PDP/CLE Committee held on February 29, and introduced Laura Angle, who made remarks on CLE program packages for law firms. Goodwille Pierre reported that the disaster recovery planning team has been selected, and work has begun updating the current business continuity plan. The state-wide migration to a single network operating system is almost complete with only two servers remaining in Austin to be converted. Michael Smith discussed the Member Benefits subcommittee monitoring the State Bar Insurance Trust, considering adding hotels and cell phones as two new benefits this year, developing a member benefits reminder card that lists contact information for

vendors, and working on adding Professional Liability Insurance as a member benefit. The issue has been raised over a possible conflict of interest between the Bar offering it and overseeing the grievance process, and Professor Bernard Black is writing an opinion on this.

M. Section Representatives to the Board Committee:

Chad Baruch and Steve Bolden reported on small and medium sized Sections, and noted that the Council of Chairs is working on increasing diversity in Section leadership programs and will send out a survey and keep the Board posted on the results. Pat Allison submitted a written report. **[Exhibit M]**

N. Supreme Court Liaison:

Justice Dale Wainwright reported that UPL Committee chair Rodney Gilstrap is stepping down and Leland De La Garza will complete his term from May 1 to September 1, 2008. The Court expects the military exemption rule for dues waivers to be approved, and will take each individual request on a case by case basis. The Court is reviewing the recommendation to change Appellate Procedure Rules. The Court's docket is full - as of last Friday they had issued 125 opinions, and last year they issued 131 opinions total. Justice Wainwright applauded the SBOT's work in Eldorado and noted that the Court dispatched their Clerk of Administration to help the civil courts in San Angelo. A video clip was shown from oral arguments held at Texas Tech's new law school building in Lubbock.

O. Report from the Executive Director:

Chris Beasley was presented with the Employee of the Quarter award.

P. Report from the General Counsel:

Elizabeth Rogers submitted a written report. **[Exhibit N]**

There being no further business, the meeting was adjourned at 3:13pm.