

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Hotel Galvez
Galveston, Texas
September 25, 2009**

The Board of Directors of the State Bar of Texas met in a regular session on September 25, 2009 at the Hotel Galvez in Galveston, TX. Chair of the Board David Fisher called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Rabbi Jimmy Kessler from Temple B'nai Israel delivered the invocation. Travis Sales led the pledges to the U.S. and Texas flags.

Present:

Board Members: Pablo Almaguer, Glenn Ballard, Timothy Belton, Steve Benesh, Talmage Boston, Theresa Chang, Guy Choate, Janna Clarke, Warren Cole, Jeanne "Cezy" Collins, David Copeland, Mark Daniel, Allan DuBois, Damon Edwards, Immediate Past President Harper Estes, Chair of the Board David Fisher, Susan Fisher, Deborah Gagliardi, Pamela Gilbert, Beverly Godbey, Brad Hancock, TYLA President Cori Harbour, John Hatchel, Randy Howry, Lamont Jefferson, Bert Jennings, President Roland Johnson, Kyle Lewis, Sam Lovelady, TYLA President-elect Jennifer Evans Morris, Tim Mountz, Bill Ogden, Yvette Ostolaza, Tommy Proctor, Annette Raggette, Rob Roby, Travis Sales, Immediate Past Chair Joe Shannon, Jr., John Sloan, Lisa Tatum, President-elect Terry Tottenham, Pat Wolter, Barbara Young

Liaisons*: Judge David Garcia, Scotty Holloman, Justice Phil Johnson

Section Representatives*: Chad Baruch, Steve Bolden, Stewart Gagnon, Dan Micciche, Brian Webb

Excused Absences: Arnold Aguilar, Sylvia Cardona, Judge David Folsom, Mike Gregory, John Jansonius, Judge Larry Meyers, Mark Sales

(* = nonvoting)

I. CONSENT AGENDA ITEMS

An amendment to the June 24, 2009 Board meeting minutes was made relating to the report from the President (substituting the word appointed in place of elected), and upon motion properly made by Janna Clarke and seconded by Lisa Tatum, the following items on the Consent Agenda were approved:

A. Approval of Minutes:

- a. Approval of minutes of Board meetings conducted on *June 24-25, 2009*
- b. Ratification of actions taken at the following Executive Committee meeting:
 - a) ***September 1, 2009:*** Approved minutes of the April 1, 2009 Executive Committee meeting

B. Items from the President:

Approval of appointments to the following entities:

- a. **Delegates and Alternates to the 2010 Fifth Circuit Judicial Conference:**

<u>Delegates:</u>	<u>Alternates:</u>	<u>Others:</u>
Harper Estes	Gib Walton	Roland Johnson
Joe Shannon	Travis Vanderpool	Terry Tottenham
Cori Harbour	Jennifer Evans Morris	Michelle Hunter

- b. **SBOT Insurance Trust**, for an unexpired term effective September 25, 2009 through June 30, 2012:

James C. Winton (Houston)

- c. **Texas Board of Legal Specialization**, for a three year unexpired term effective September 25, 2009 through June 30, 2012:

Elisa Maloff Reiter (Dallas)

- d. **Texas Legal Services Center**, for a three-year term effective January 1, 2010 through December 31, 2012:

Xavier G. Medina (Austin)

C. Items from Committees and Sections/Divisions:

- a. Approval of request by the State Bar Business Law Section to amend its bylaws [**Exhibit A**]¹
- b. Approval of request by the State Bar Asian Pacific Interest Section to increase its dues from \$10.00 to \$15.00 [**Exhibit B**]
- c. Approval of request by the State Bar Antitrust and Business Litigation Section to increase its dues from \$15.00 to \$20.00 [**Exhibit C**]
- d. Approval of State Bar standing committee members to serve as Chair on the following committees:

Laura Gibson (Houston) Advertising Review Committee, for a one year unexpired term ending June 11, 2010

Janna Clarke and David Keltner (Fort Worth) Annual Meeting, for one year term ending June 11, 2010

D. Other Items:

- a) Approval of resolution honoring –
- 1) **Pete Fiero**
 - 2) **Michael Morgan**
 - 3) **Tom Scott**
 - 4) **Smith County Bar Association**

II. REPORTS

A. Report from the Chair of the Board:

Chair Fisher solicited candidates for the 2010-11 Chair of the Board. Per Board policy, second-year directors interested in running for chair shall notify the current Chair of the Board in writing before the January Board meeting of his or her intention to seek that position for the following Bar year. Directors should also submit a statement of position before the January Board meeting.

B. Report from the President:

President Johnson gave a general report and discussed various topics including mentoring initiatives, the Office of Capital Writs, and LeadershipSBOT. Johnson noted that the two mentoring initiatives, "Transition to Practice" and AfterTheBarExam, have received a lot of interest, and he is continuing the LeadershipSBOT program this year with 20 participants that were selected from 90 nominations received.

President Johnson reported on the issue of Professional Liability Insurance Disclosure and the responsibilities of the role of the Board to attend the hearings in their areas and to "inform, listen and vote". Johnson noted that a packet of information has been distributed on the issue at this meeting. **[Exhibit D]** Various questions were raised as to whether or not any decision has been made by the Court, what possible motions will be made at the January Board meeting, how it has impacted other states when it was enacted, and the logistics and expectations of the directors at the hearings. The directors were also told to be careful what they write in emails with respect to the Open Meetings Act.

C. Report from the Immediate Past President:

Immediate Past President Harper Estes thanked the staff and the directors from the Dallas area for the success of the Annual Meeting this year.

D. Report from the President-elect:

President-elect Terry Tottenham reported on presidential initiatives for his year, including the Texas Lawyers for Texas Veterans, which is a coalition for veterans with mental health issues that Dan King will head up. Tottenham also mentioned the DVD project aimed at helping lawyers with mental health, alcohol and substance abuse issues, and updating CLE programs and technology. Tottenham then reported on the timeline of the proposed SBOT FY 2010-11 budget, noting that the public hearing will be held in April and the budget will be presented to the Supreme Court for approval in May.

E. Commission for Lawyer Discipline/Chief Disciplinary Counsel:

Betty Blackwell gave a general report on the make-up and role of the Commission, attorney's fees collections, impaired respondent rehabilitation, and the grievance referral program. **[Exhibit E]**

F. Policy Manual Subcommittee:

Barbara Young reported on the work of the subcommittee and the latest changes to the Policy Manual.

On behalf of the subcommittee, Young moved for approval of the following amendments to the Policy Manual:

(1) Revision of Section 1.12.05 regarding public participation at Board meetings

(2) Revision of Section 1.14.01 regarding Board committees

(3) New Section 8.02 regarding procedure to consider requests that the State Bar file Amicus Curiae briefs; no second needed. Motions carried. [Exhibit F]

G. Supreme Court Liaison:

Justice Phil Johnson reported on the Advisory Committee and the Rules changes. Johnson noted that the insurance disclosure issue may not be a problem, but the issue has been coming up several times for awhile and therefore the Court felt it needed to be addressed.

H. Administration Committee:

Tim Mountz reported that the Employment/Salary/Evaluation subcommittee will be reviewing and making revisions to the Employee Handbook. Mountz gave a building update and reported on the new Dallas lease for the Princeton Building and the lobby remodel. The Performance Measures & Strategic Planning subcommittee will submit the State Bar performance measures for approval at the January meeting, and the UPL Subcommittee is waiting for implementation of the new case management program.

I. MCLE Committee:

David Smith reported on the proposed changes to the MCLE regulations and accreditation standards, and introduced Hull Youngblood, who reported on the background of rules adopted and noted that the proposed amendments will bring the regulations in line with changing technology. Several Board members asked questions regarding the financial impact, live seminars vs. interactive CLE, and the pros and cons of implementing these changes. Pat Nester discussed revenue estimates and noted that the immediate fiscal impact will not be negative. The proposed changes will be presented to Board in January for approval. [Exhibit G]

J. Audit & Finance Committee:

Warren Cole reported that the general fund unaudited total revenues as of May 31 are \$34,963,603, with a \$1.43 million favorable net excess, and TexasBarCLE has net revenue of \$120,222. Beverly Godbey introduced Ken Couch from PFM Asset Management, LLC, who gave background information on his firm and discussed our investment profile and the economic downturn.

On behalf of the Committee, Cole moved for the following:

(1) Acceptance of the quarterly investment reports for quarters ending May 2009 and August 2009; no second needed. Motion carried.

(2) Approval of PFM Group and University of North Texas Center for Public Management as Public Funds Investment Act Trainers for FY 2009-10; no second needed. Motion carried.

(3) Approval of the broker/dealer list for investments for 2010-11; no second needed. Motion carried.

(4) Approval of the investment policy; no second needed. Motion carried. [Exhibit H]

K. Discipline and Client Attorney Assistance Committee:

Janna Clarke reported on the Client Security Fund subcommittee and their backlog of cases. Lisa Tatum reported that the Court is in the process of reviewing the proposed amendments to the Texas Disciplinary Rules of Professional Conduct, and the DCAAP subcommittee will work with the Court on implementing the likely

referendum of these rule amendments later this year. The subcommittee is waiting to hear back from the Department of Insurance on implementation of the payee notification rule, and it will also consider proposed revisions primarily to Part VI “Disciplinary System” of Board Policy.

L. Nominations & Elections Subcommittee:

Joe Shannon reported that the committee has begun the process of finding potential nominees to run for President-elect in the upcoming small-city election year, and plans to conduct interviews in December.

M. Member Services & Education:

Chad Baruch reported that the New Directors Orientation subcommittee will meet in January to begin planning this year’s orientation. Kyle Lewis reported that the Appeals Grants Review subcommittee received two requests for authorization to seek outside funding from the Texas Bar Foundation; one from TYLA for their Cyber Crimes Awareness video project, and one from Law Focused Education, Inc. for the educational curriculum “Play by the Rules: Texas Laws for Youth”. Both of these requests were approved by the subcommittee. [Exhibit I] Theresa Chang gave an update on the Texasbar.com website redesign project, which is being performed in three phases; graphic design, site development, and implementation/launch. Randy Howry reported on the three focus areas of the Insurance/Member Benefits subcommittee; sponsorship of PLI, State Bar Insurance Trust, and non-insurance member benefits.

N. Public Services & Education:

Guy Choate reported that the total amount collected from attorneys to date for Access to Justice is \$618,241, which is good considering the economic climate. The Lawyer Referral Service Department recently launched a new online referral feature on the SBOT website, which allows consumers to access the website twenty-four hours a day and receive a referral to an attorney that is part of the referral service based on the information they provide.

O. Report from the General Counsel:

Elizabeth Rogers had a written report. [Exhibit J]

Closed Session: At 1:30pm, Chair Fisher announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.071 for the purpose of consultations with the General Counsel regarding *Edwards, et al v. Estes, et al*.

Open Session: Upon return to open session at 1:39pm, Chair Fisher announced that during the closed session, only matters relating to *Edwards, et al v. Estes, et al* were discussed. No action was taken in closed session.

In open session, Janna Clarke moved for approval of the following:

- 1) **Settle *Edwards v. Estes* according to the terms of the Settlement Agreement, subject to dismissal of the individual defendants with prejudice and substitution of the State Bar as the Defendant, and**
- 2) **Authorize Michelle Hunter to execute the Agreement on behalf of the State Bar; Warren Cole seconded. Motion carried.**

P. Texas Young Lawyers Association:

TYLA President Cori Harbour highlighted the various activities of the TYLA, including the ABA/YLD Annual meeting where TYLA won the Best Young Lawyers Organization Award and Ten Minute Mentor Goes to Law School was awarded first place Service to the Bar Award. Also, Kelly Ann-Clarke from Galveston was sworn in

as chair of the ABA/YLD at this meeting. Harbour also reported on the Women's Equality Day in El Paso, Community Law Day events, the TYLA website redo, school rollouts, Healing the Wounds screenings, and the Diversity Summits.

Q. Judicial Section Liaison:

Judge David Garcia reported that the Judicial Section has started the transition of accounting and administrative responsibilities from the Texas Center for the Judiciary back to the SBOT. The three issues the Section will be focusing on this year are judicial compensation, the judicial education fund, and the Court reorganization bill.

R. Out-of-State Lawyer Liaison:

Scotty Holloman noted that out of state lawyers appreciate the efforts of the MCLE Committee to allow various types of delivery of MCLE information, such as podcasts. He also reported on coverage of professional liability insurance in New Mexico and commended the Court for wanting to vet this issue.

S. Executive Director:

Michelle Hunter reported on the Galveston hurricane relief efforts, and presented Julia Cortez of the Texas Lawyers Care Department with Employee of the Quarter.

President Johnson made remarks on the upcoming year of Board meetings, and with there being no further business, the meeting was adjourned.

¹ Exhibits A through J are available at www.texasbar.com/bodcentral under Meeting Agendas and Minutes.