

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
Zoom
January 21, 2022
Phoenix, AZ**

BOARD MEMBERS PRESENT: Jennifer Rebholz, President, Phoenix; Jessica Sanchez, President-Elect, Mesa; Vice President, Benjamin Taylor, Phoenix; Secretary-Treasurer, Ted Schmidt, Tucson; Diandra Benally, Fountain Hills; Sandra Bensley, Tucson; Sharon Flack, Prescott; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; David Rosenbaum, Phoenix; Eric Ruckensky, Flagstaff; D. Christopher Russell, Sierra Vista; Samuel Saks, Phoenix; Jimmie Dee Smith, Yuma; Public Members: Robyn Austin, Tucson; Mignonne Hollis, Sierra Vista; and Anna Thomasson, Paradise Valley; At-Large Members David Byers, Phoenix; Lori Higuera, Phoenix; and Doreen McPaul, Window Rock; Dean Marc Miller, Tucson.

EXCUSED ABSENCES: Board Advisor Denis Fitzgibbons, Casa Grande; Public Member Jonathan Martone, Paradise Valley; YLD President Gaya Shanmuganatha, Phoenix.

UNEXCUSED ABSENCE: Hector Figueroa, Payson.

OTHERS PRESENT: Victoria Ames on behalf of Interim Deans Chodorow and Kramer, Phoenix; Deanna Commack, Executive Assistant; Sarah Corpening, Membership Administrator & Services Manager; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Joe Hengemuehler, Chief Communications Officer; Lori Maxwell, Chief Information Officer; Elena Nethers, Director of Diversity, Equity and Inclusion; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Carrie Sherman, Director of Board Operations; Roberta Tepper, Chief Member Services Officer; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; Rachel Williams, Human Resources Director; Leah Won, UA College of Law, Tucson;

GUESTS: Aaron Shelby, State Bar Application Development Manager; State Bar Members Michael Simes and Sara Thomas.

President Jennifer Rebholz called the virtual Board meeting to order at 8:31 a.m.

Call to the Public – Jennifer Rebholz

President Rebholz made a Call to the Public and hearing nothing, moved on to the next item on the agenda.

President's Report – Jennifer Rebholz

- Elections:
 - The deadline to submit an application for the upcoming Board election was extended after a discussion with CEO Joel England due to a shortage of candidates to fill seats.

- Uncontested elections in three Board Districts launch online March 23
- District 3 (Gila, Graham and Greenlee Counties): Hector Figueroa is not running for re-election; the current candidate is Preston Pollock.
- District 6 (Maricopa County): Incumbents Diandra Benally and Benjamin Taylor and former Young Lawyers Division President Jena Decker-Xu are running for election to fill three seats.
- District 8 (Pinal County): Denis Fitzgibbons is running for re-election.
- Public Members:
 - Robyn Austin was reappointed by the Court to a three-year term beginning in June 2022.
 - Anna Thommason is not seeking reappointment; Appointments Committee will recruit, screen, and recommend candidates to the Board; the nominations will then be sent to the Court for its appointment.
- Lawyer's Malpractice Insurance
 - Ted Schmidt: Asking that the issue of Lawyer's Malpractice Insurance be studied.
 - Executive Council sent this issue to the Program Review Working Group for its recommendations.
- Bylaws Working Group
 - The Bylaws must be reviewed every three years; last amendments were adopted in 2018.
 - Asked Board members to indicate their interest in serving on the Working Group.
 - One issue to be addressed is the meeting format (in-person, hybrid, virtual).
- Events:
 - National Council of Bar Presidents meeting in Seattle on February 10-12, 2022 will now be virtual. CEO England, President Rebholz, and President-elect Jessica Sanchez plan on attending. The entire ABA Midyear Meeting will now be virtual.
 - Attended Justice Kathryn King's Investiture on January 7, 2022 along with several members of the Board and presented her with a gavel set on behalf of the Bar.
- Convention
 - Planning for the convention as an in-person event is still in progress; the dates are Monday, June 27, 2022 through Wednesday, June 29, 2022.
 - An in-person Board meeting is planned for Monday, June 27, 2022 at 8:00 a.m. Please note that seminars will be available at the same time as the Board meeting.
 - Robert McWhirter: Let the members/public know in case they want to join any Board meeting virtually.

CEO's Report – Joel England

- Staff Recognition: Introduced Aaron Shelby, a previous winner of Employee of the Quarter, and now being recognized as Employee of the Year for 2021. Mr. Shelby was a Sr. Programmer in 2021, where his focus was on security; in 2022, he was promoted to Application Development Manager.
- CEO England and CCO Hengemuehler attended the Greater Phoenix Chamber's Legislative Kickoff on January 13, 2022.

- Met with Justice Kathryn King to discuss the State Bar’s audit, its budget and the Bar in general.
- Janna Day, the Bar’s lobbyist, said there is a possibility of an anti-Bar bill that will be introduced by a Senator from Oro Valley. CEO England met with him and went over his concerns about politicization of lawyer discipline cases. The Senator asked for follow up, which was provided.
ACTION: President Rebholz asked that Board members have the *elevator speech* ready to reiterate the work that the Bar is doing and also to reach out to a member(s) of the legislature they may know.
 Both CEO England and President Rebholz are willing to meet with anyone and engage in a conversation.
- ABA Division for Bar Services: Participating, with Elena Nethers, in a working group that is establishing standards to measure Bar outcomes.
- COVID Update: Tracking the vaccination status of staff; there have been nine reported COVID cases, but those that contracted the disease reported that they were not exposed to it at the workplace.

Mark Harrison Memorial 10-Minute Topics – Robert McWhirter
Of Cowboys and Indians: Voting and American Icons

Opportunity Reserve - Joel England and Kathy Gerhart

- The Finance & Audit Committee (FAC) previously recommended creating a third reserve account (along with the Annual Fee Reserve and Capital Reserve) called an Opportunity Reserve.
 - Looking for a vote today to approve and establish this fund.
 - The fund can provide a way to finance something that comes up that was not in the budget for that year, e.g., special projects, innovation, or Mission-driven expenses.

QUESTION: Michael Simes: This is the first time he has heard about this; he is a member of the Bar but not of the Board. He understands things come up and wanting to have financial flexibility but is concerned about oversight of the account.

Responses:

- President Rebholz reviewed the history and how the two funds were established. There is excess surplus due to COVID.
- CEO England indicated there are protections in place and CFO Kathy Gerhart pointed out the oversight language on page two of the document.

Michael Simes: He didn’t see the document before today nor knew what the FAC discussion entailed.

MOTION: Jessica Sanchez moved, Kelsi Lane seconded and the motion carried by 16-3 to approve the proposed Opportunity Reserve.

Consent Agenda – Jennifer Rebholz

- The Preliminary list of 2020-21 MCLE Summary Suspensions that was previously circulated included a member, Michelle Rathkamp, who has passed away; and her name has been removed from the list.
- Hearing no request to have any items removed from the Consent Agenda:
MOTION: Lori Higuera moved, Chris Russell seconded and the motion to approve the Consent Agenda with the change in the MCLE Summary Suspension list passed unanimously.
 - a) Approval of December 10, 2021 Board Meeting Minutes
 - b) Approval of Resignations in Good Standing
 - c) Approval of Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
 - d) Approval of 2020-2021 Summary Suspensions for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
 - e) Bankruptcy Law Section - Proposed Bylaw Amendments
 - f) Environmental Law Section - Proposed Bylaw Amendments
- Ted Schmidt: There are seven repeat MCLE offenders. Is there merit in reaching out to these members? What is the real cause they are not in compliance?
 - Roberta Tepper: The Bar membership team sends multiple reminders over the notice period; the team can certainly address the seven members.
 - Ted Schmidt: His suggestion is to include the benefits of Bar membership and the Bar's resources in said outreach.
ACTION: Ms. Tepper will modify the communicate that is routinely sent.

Finance and Audit Committee – David Rosenbaum and Kathy Gerhart

- Currently anticipating around a \$2,577k year-end surplus on a budgeted surplus of \$475k. Significant factors contributing to the large surplus include:
 - Revenues:
 - Pro Hac Vice applications and renewals - \$90k more than anticipated.
 - CLE continued to offer new programs & adapt to the virtual platform resulting in around \$350k more than budgeted.
 - Advertising revenues, specifically ad space in the *Arizona Attorney Magazine*, the website and the online career center were around \$200k more than anticipated.
 - Investment earnings not budgeted – relationship with Vanguard established after the 2021 budget cycle resulted in additional revenues of \$300k net of fees.
 - Expenses:
 - Advertising and promotion underspent by around \$45k.
 - \$200K in savings related to office expenses which includes mailroom credits for operating short staffed, as well as mailing & postage costs related to fliers/advertisements for CLE.
 - Also spent less than budgeted related to travel, mileage, meals and meeting spaces for member-driven items such as CLE by the Sea, other CLE and Section

events, Bar Leadership Institute, BoG meetings, ABA Delegates and officers' travel, and internal items such as staff education.

- Next Steps
 - Finish normal month-end close process for December with preliminary numbers available by January 31, 2022.
 - Anticipate completion of year-end adjustments necessary for the audited financial statements by the end of February.
 - Audit field work scheduled for May.

Status Reports

- Delivery of Legal Services Implementation Team – Lisa Panahi
 - There are now nine Affiliate Members; they are all in the practice area of Family Law; we have learned that three of these paraprofessionals have applied for professional liability insurance coverage.
 - Bar's Sections are amending their bylaws to include the paraprofessionals.
 - David Byers:
 - 12 more in the pipeline; currently in character and fitness process
 - Office of Administrative Hearings asked to grant approval to allow these paraprofessionals to appear before the agency.
 - University of Arizona has a modified curriculum for a BA in Law degree that the Court approved; graduating students will be eligible to sit for an exam.
 - 20 Alternative Business Structures have been approved.
- Legislative Update – CCO Joe Hengemuehler
 - The Senate bill request deadline was January 19, 2022; bills that have been requested in the Senate must be introduced by January 24, 2022. David Case previously introduced the spendthrift trust bill that came out of the Probate and Trust section; Janna Day's suggestion last year was to wait until this legislative session. It has a sponsor this year; trying to get Senate Judiciary Chair Petersen to put it on a committee agenda (Bill 1207).
- Social Justice, Bias and Inclusion Working Group – Elena Nethers
 - The member survey data-sharing agreement with the University of Arizona has been signed by the Bar, then will need to be signed by UA; next step is a test to determine a respondent's time to complete the survey; sample group includes members of the Board of Governors and the Social Justice, Bias and Inclusion Working Group.
 - Working on how to communicate the survey to members.
 - A focus in 2022 will be to examine race/gender in the lawyer regulation process; looking for analytics expert.
- Strategic Planning Working Group – Sam Saks
 - No updates to report.

Correspondence/Reports

- Executive Council Minutes January 7, 2022
- Appointments Summary December 2021

HR Subcommittee: Sandra Bensley: It is time for the CEO's annual review; Board members' feedback will be requested on a quick turnaround.

Adjournment: 9:50 a.m.

Respectfully submitted,

Ted A. Schmidt
Secretary/Treasurer