

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
January 29, 2016
Phoenix, AZ**

BOARD MEMBERS PRESENT: Geoffrey Trachtenberg, President, Phoenix; Lisa S. Loo, President-Elect, Phoenix; Alex B. Vakula, First Vice President, Prescott; Steven A. Hirsch, Secretary-Treasurer, Phoenix; Tyler J. Carrell, YLD President, Phoenix; Richard D. Coffinger, Glendale; Hon. David G. Derickson, Phoenix; Diane L. Drain, Phoenix; Denis M. Fitzgibbons, Casa Grande; Brian Y. Furuya, Flagstaff; Patrick Greene, Tombstone; Melissa Ho, Phoenix; James B. Penny, Tucson; Jennifer R. Rebholz, Phoenix; Samuel Saks, Phoenix; Jimmie Dee Smith, Yuma; Public Members: Audrey R. Jennings, Scottsdale; Meredith Peabody, Prescott; Anna C. Thomasson, Phoenix; and At-Large Members: David K. Byers, Phoenix; Lori Higuera, Phoenix; and Paul Senseman, Phoenix; Ex-Officio Members: Dean Shirley Mays, Phoenix; Dean Marc L. Miller, Tucson.

EXCUSED ABSENCES: Dee-Dee Samet, Tucson; Public Member Tony Finley, Tucson; Jeffrey Willis, Second Vice President, Tucson; At Large Member Dean Douglas Sylvester, Tempe.

OTHERS PRESENT: Nina Benham, Board Services Specialist; Matt Campbell, Help Desk Technician; Rick DeBruhl, Chief Communications Officer; John Furlong, General Counsel/Deputy Director; Martin Gaxiola, Accounting Manager; Kathy Gerhart, Chief Financial Officer; Rob Hosch, Technology Support Director; Gayle V. Jackson, Human Resources Director; Ann Leslie, Executive Assistant; Lisa Panahi, Sr. Ethics Counsel; John Phelps, CEO/Executive Director; Patricia Seguin, Legal Services Manager; Carrie Sherman, Director of Board Operations and Court Liaison Hon. Ann A. Scott Timmer, Phoenix and newly appointed Court Liaison Hon. Clint Bolick, Phoenix; Maret Vessella, Chief Bar Counsel.

GUESTS: Jack Levine; Hon. Lawrence Winthrop; Rob Risley, Sr. Counsel Freeport-McMoRan, Inc., Trustee for Rocky Mountain Mineral Law Foundation; Kyle Orne.

President Geoffrey Trachtenberg called the Board meeting to order at 8:35 am.

PRESIDENT'S REPORT– President Trachtenberg

- Presentation to Supreme Court Liaison, Hon. Ann A. Scott Timmer, for her service on the Board of Governors from 2012 to 2016.
- Welcomed newly appointed Justice Clint Bolick who will replace Justice Timmer as Court liaison.
- Study Group on Judicial Review of Administrative Decisions Rules being formed.

CEO/ED REPORT – John Phelps

- Introduced Nick Guston, Sr. Business Analyst, Employee of the Quarter who will celebrate his one-year anniversary with the State Bar in February. Mr. Guston was recognized for his work and initiative with the new JustWare (case management) project.
- Reported that Alberto Rodriguez, Public Information and Community Outreach Specialist, was selected as the Employee of the Year. Mr. Rodriguez was recognized for his work in expanding the State Bar's community outreach, including new partnerships with Univision Arizona, ABC 15 and the Glendale City Court. He is recognized as the face of the bar in the Hispanic community.
- Strategic Planning – Staff is breaking down the Goals in the recently adopted Strategic Plan into action steps.
- Annual Performance Reviews are underway.
 - Robust process with quarterly reviews
 - End of Year Formal Reviews now being conducted
- Recent quarterly orientation for new members drew 60 participants who wanted to learn about the Bar. Thanked Justice Timmer for her participation in this and many other Bar initiatives over the years.

LAWYER DISCIPLINE SYSTEM PRESENTATION (2 of 3) – Maret Vessella, Chief Bar Counsel, and Hon. Lawrence Winthrop

- Presentation continued from last month regarding the lawyer discipline process. The series of presentations are at the Board's request to become better educated about the system.
- This first educational discussion covered the Intake system handled by the Attorney/Consumer Assistance Program. Judge Lawrence Winthrop covered the Investigation/Attorney Discipline Probable Cause Committee (ADPCC); Judge Winthrop chairs the ADPCC.
- Ms. Vessella reported that cases referred for investigation stem from a charge that is otherwise not dismissed or diverted out of Intake.
- There are a total of seven litigation lawyers in Lawyer Regulation Office.
 - In 2014, 751 Charges referred to litigation for a full investigation of the allegations; attributed to 422 lawyers.
 - Average time to conduct a full investigation can range between 6-8 months.
 - Weekly internal meeting with all the bar counsel to discuss the recommendations on each case. Every case is vetted thoroughly and considered for Diversion eligibility.
 - The Attorney Discipline Probable Cause Committee is authorized to issue informal sanctions which include admonition, probation, and restitution. The Committee also authorizes the filing of formal complaints.
 - The State Bar's Report of investigation is sent to respondent lawyer and the complainant is advised of the recommendation and the right to file an objection.
 - Respondent can provide a response to the report of investigation (only 50-60% respond).

- Report of investigation sent to ADPCC along with any responses received from the respondent and/or complainant.
- Judge Winthrop gave an overview of the work of the ADPCC:
 - Authority, Rules and Guidelines
 - FAQs
 - Composition
 - Meetings
 - Procedure
 - Diversion/Discipline Tool Box
- ADPCC Statistics: 2012-2015 were provided to the Board.
- Only 25% of respondents hire counsel.
- Recurrent Themes/Trends
 - Trust account issues
 - Non-refundable retainers/fee agreement
 - Diligence
 - Communications
 - Terminating representation
 - Confidentiality/Social Media issues
 - Failure to respond to Bar inquiry
 - New lawyers/lack of mentoring
 - Senior lawyers/exit strategy
- Board of Governors considered whether receiving monthly Probable Cause statistics would be part of its oversight role.

BREAK – 10:00 – 10:10 a.m.

LEGISLATURE UPDATE – Lobbyist Janna Day

- Nothing has been sent to committee as of yet.
- HB2219 (lawyer does not have to be a member of the State Bar to practice) - same bill Representative Kern authored last year which was defeated in the House.
- HB2221 proposes to split the bar into mandatory and discretionary functions. All members would pay for the mandated functions, the discretionary fee would be optional.
- HCM 2002 and 2003 - Memorials that would make recommendations to the Court. These have not yet been assigned to Committee.
- HB2039 - reduces judges' pay. Also proposes elimination of merit selection; judges elected every four years.
- SB1168 - mental health powers of attorney legislation, crafted by the State Bar's Elder Law, Mental Health & Special Need Planning Section, is scheduled for a hearing before the Senate's Health and Human Services Committee.

PRESENTATION OF HIGH BAR EXAM SCORE AWARD – President

Trachtenberg

- Kyle Orne is currently a Junior Level Associate at Quarles & Brady in its Litigation and Dispute Resolution Group. He received his law degree, magna cum laude, from the Sandra Day O'Connor College of Law at Arizona State University.
- Mr. Orne received the highest score on the July 2015 Uniform Bar Examination out of 650 applicants.
- President Trachtenberg presented him with a gift on behalf of the Board of Governors and the State Bar of Arizona.

APPOINTMENTS COMMITTEE – Alex Vakula on behalf of Chair Jeffrey Willis

- a) Pima County Commission on Trial Court Appointments –
 - Due to a resignation there is a Supervisorial District 1 vacancy
 - cannot be registered Republican
 - scheduled for the April Board of Governors meeting
- b) Pinal County Commission on Trial Court Appointments
 - Supervisorial District 4 vacancy
 - any political party affiliation
 - continued to February Board of Governors meeting
- c) Board of Governors Public Member
 - Meredith Peabody will be rotating off in June after six years.
 - The board discussed the candidate criteria for recruitment purposes.
 - Scope and Operations Committee recommended accounting/finance and/or HR experience as well as service on other boards.

ROCKY MOUNTAIN MINERAL LAW FOUNDATION – Overview of the

Foundation – Rob Risley

- Educational 501(c)(3)
- Natural Resource Law focus
- Supports Scholars, Law Schools, Educational Programs
- International Scope
- CLE Provider
- Financially Sound
- RMMLF is a not-for-profit educational organization serving:
 - Annual members and general public seeking education in mineral law and related areas, through institutes, short courses, and publications.
 - Law schools, law professors, and law students needing assistance in furthering educational programs in mineral law and related areas through scholarships, grants, and other outreach projects.
- Law School Outreach Programs include: scholarships; grants for legal scholarships; special projects funding; scholarship recipient attendance program; CLS student attendance programs, and CLS Student networking program
- Organizational Structure
 - 23 Board of Directors

- Trustees Council (138 Trustees)
 - 62 Constituent Organizations
 - 25 Trustees at Large
 - Past Presidents
 - Honorary Trustees
- Members
- Standing and Ad Hoc Committees
- Program Committees
- Executive Director
- Foundation Staff
- The State Bar has had a Delegate Trustee for 53 years. Rob Risley has been the SBA designated RMMLF trustee since 2006.
- Mr. Risley is in-house counsel at Freeport-McMoRan, Inc.
- He encouraged dialogue/questions/directions from the Board.

CONSENT AGENDA – President Trachtenberg

- a) Approval of December 4, 2015 Board of Governors Meeting Minutes
- b) Resignations in Good Standing
- c) Reinstatements to Practice of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
- MOTION: Tyler Carrell moved, Dave Byers seconded, and the motion carried unanimously to approve the Consent Agenda as presented above.

FINANCE AND AUDIT COMMITTEE – Chair Dave Byers

- Form 990's, Related Parties informational request' required by the IRS, distributed to the Board members for completion at the meeting.
- Financial Report – previously reported that a year-end surplus of \$600,000 was expected; preliminary year-end estimated surplus of \$1.3M.
- Dues penalties were twice what was anticipated.
- The surplus will be distributed to the Dues Reserve Account and the Capital Reserve Account.
- Court established dues increase of \$15/year through 2018. Audit and Finance Committee is currently studying five-year and ten-year financial projections.
- Client Protection Fund – claims have doubled in the last two years. \$10 of each member's dues goes to the CPF. Reserve decreasing as paid claims increase. The Audit and Finance Committee is also reviewing.

ADJOURN

There being no further business to come before the Board of Governors, the meeting adjourned at 10:45 a.m.

Respectfully submitted,

Steven A. Hirsch
Secretary-Treasurer