

President Toy called the meeting to order at 9:40 a.m. on Friday, January 22, 2010 at the State Bar of Michigan

Commissioners present:

Danielle Mason Anderson
David R. Brake
Lori A. Buiteweg
Laura Chappelle
B. D. "Chris" Christenson
Margaret A. Costello
Bruce A. Courtade, Secretary
Richard L. Cunningham
Brian D. Einhorn, Treasurer
James N. Erhart
Elias J. Escobedo, Jr.,
Julie I. Fershtman, Vice President
Stephen J. Gobbo
Elizabeth M. Johnson
David A. Kallman

Donald E. McGinnis, Jr.
Maureen M. McGinnis
Hon. William B. Murphy
Lambro Niforos
Lawrence P. Nolan
David A. Perkins
Victoria A. Radke
Michael J. Riordan
Donald G. Rockwell
Thomas C. Rombach
Kurt E. Schnelz
Angelique Strong Marks
Charles R. Toy, President
Gregory L. Ulrich

Commissioners absent and excused:

Commissioners W. Anthony Jenkins President-Elect, Richard J. Siriani, Julie A. Sullivan and Laurin' C. Roberts Thomas were absent and excused.

State Bar Staff present:

Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Director, Member Services and Communications
Gregory Conyers, Diversity Director
Candace Crowley, External Development Director
Dawn Evans, Director, Professional Standards
Cliff Flood, General Counsel
James Horsch, Director, Finance and Administration
Elizabeth Lyon, Governmental Relations Director
Kari Thrush, Member Services and Events Manager
Anne Vrooman, Research and Development Director

Guest(s):

Tina Peters, Plante Moran
Jean Young, Plante Moran

Consent Agenda

Minutes

The Board received the minutes from the November 19, 2009 Board of Commissioners meeting and the November 10, December 1, and December 15, 2009 Executive Committee Meetings.

President's Report, Charles R. Toy, President

The Board received a written report on the President's recent activities.

Executive Director's Report, Janet K. Welch, Executive Director
The Board received a written report on the Executive Director's recent activities.

Finance, Bruce A. Courtade, Chairperson
The Board received the FY 2010 Financial Reports through November 30, 2010, the Financial Forecast and the FY2009 Annual Financial Report.

Professional Standards, Julie I. Fershtman, Chairperson
The Board received the Client Protection Fund Claims.

A motion was offered, supported, and carried, to approve the consent agenda.

COMMISSIONER COMMITTEES

Finance, Brian D. Einhorn
Mr. Einhorn provided the Board with a financial and investment update.

Audit Committee, Brian D. Einhorn
Mr. Einhorn provided the Board with an update on the activities of the Audit Committee and introduced Jean Young and Tina Peters from Plante Moran who provided the Board with the audit report.

Professional Standards, Bruce A. Courtade, Chairperson
Mr. Courtade reported on the rules of the new Judicial Ethics Committee. He indicated that the Supreme Court requested that a separate committee be formed specifically for Judicial Ethics. Mr. Courtade indicated that the differences between the Ethics Committee and the Judicial Ethics committee is that the composition of the Judicial Ethics committee is limited to present judges, former judges or lawyers who act as referees or magistrates and that the quorum rules differ in that the Judicial Ethics Committee has simple majority as quorum instead of a two thirds quorum rule currently in place for the Ethics Committee.

The Professional Standards Committee discussed the rules for this committee and a motion was offered by Mr. Courtade to accept the rules as presented. There was support and a discussion followed.

Ms. Johnson advocated for the addition to the Judicial Ethics Committee membership of a representative from the Michigan Association of District Court Magistrates. She also commented on Rule 8, which requires formal opinions from this committee to be submitted to the Board for approval. Ms. Johnson would propose that the Representative Assembly (RA) approves the formal opinions. Mr. Courtade and Ms. Evans informed the Board that Rule 8 is identical to the rule that is currently in the Professional Ethics Committee.

A motion was offered by Ms. Johnson to add a representative from the Michigan Association of District Court Magistrates to Rule 2. The motion was supported and discussion followed. Mr. Courtade accepted this motion as a friendly amendment to his earlier motion.

Ms. Johnson offered a motion to amend Rules 8 B, C, and D to have the formal opinions from the Judicial Ethics Committee sent to the RA for approval. The motion was supported and discussion took place. The motion was defeated.

A motion was offered and supported to table the entire proposal of the rules of the Judicial Ethic Committee Rules as sent out. The motion was defeated.

Mr. Toy called for a vote on the motion from Mr. Courtade to adopt the proposed rules, including the amendment to include a representative from the Michigan Association of District Court Magistrates, and to refer

the issue of having formal opinions of this committee sent to the Representative Assembly for approval to SBM staff. The motion was adopted.

SBM staff was also asked to review the rules for the Judicial Ethics Committee and the Professional Ethics Committee as to the meaning of "policy issue" in Rules 8 B, C, & D and Rule 9C and report back at the next meeting.

Ms. Evans informed the Board that there was a bookmark at their seat that asks SBM members to save the date for a future Practice Management Resource Center seminar.

Programs and Services, Julie I. Fershtman, Chairperson

Ms. Fershtman reported there were no items before the committee.

Public Policy, Image and Identity, W. Anthony Jenkins, Chairperson

The Board was provided with a report from Governmental Consultant Services, Inc.

The Board was provided with a report from the Justice Initiatives Co Chairs Hon. Cynthia Diane Stephens and Tern Staugl

Ms. Lyon provided the Board with an update on proposals for a sales tax on services. Commissioners stressed the importance of getting this information out to the members.

Ms. Lyon informed the Board that HIB 5676, which deals with Public Defense Reform, was introduced and that hearings will occur in February. Workgroups are currently meeting to discuss strategic issues.

Ms. Lyon reported that the State of Michigan was asked to present a panel at the ABA Standing Committee on Legal Aid and Indigent Defense Summit on Saturday, February 6 regarding Public Defense Reform. The panel will be moderated by Dennis Archer and panelists include Chief Justice Marilyn Kelly, State Representative Mark Meadows, State Appellate Defender Jim Neuhard, Professor Norm Lefstein, and Elizabeth Lyon.

Ms. Lyon informed the Board that US Attorney General Erik Holder has scheduled a symposium on federal reform on public defense. Attendance at this symposium is by invitation only and Ms. Lyon indicated that Michigan will be well represented.

Michigan Court Rules

MCR 6.433 Good Cause provision

Motion offered and supported to support MCR 6.433 – Motion was adopted

MCR 2.411 C (5) and 3.216 (H) (8) Domestic Violence Committee Memo

Authorization for Domestic Violence committee to submit a memo regarding a proposed rule change.

Motion offered and supported to authorize the Domestic Violence Committee to submit comments – Motion adopted.

Legislation

IIB 4790 & HB 4791 Wrongful Imprisonment

Motion offered and supported to support IIB 4790 & HB 4791 – Motion adopted

HB 5196 Uniform Power of Attorney Act

The Board did not take a position on this bill but deferred to the Elder Law and Disabilities Rights Section and the Probate and Estate Planning Section.

LEADERSHIP REPORTS

President's Report, Charles R. Toy, President

Mr. Toy informed the Board that the 2009-10 SBM Commissioner and Staff directory and updates to the Commission book was at their seats.

Mr. Toy informed the Board that a committee to review the statistics affecting possible reapportionment has met and reviewed the preliminary findings and that the committee will meet again today after the board meeting. The reapportionment must be approved by February 10 in order to be included in the 2010 SBM elections. Mr. Toy provided the Board with the preliminary data analysis.

Mr. Toy extended invitations to the Board to the July 23 Detroit Tiger ballgame sponsored by Cooley Law School and to an opera at Michigan State University that is taking place after the March 26 board meeting in which his daughter, Elizabeth Toy, is performing.

Executive Director's Report, Janet K. Welch, Executive Director

Supreme Court Update

Ms. Welch provided the Board with information about the SBM efforts to suggest revisions to the lawyer disciplinary rules to the Supreme Court.

Litigation Report

Ms. Welch informed the Board that there was not a litigation report for this meeting as there is currently no pending litigation involving the Bar.

Judicial Crossroads Task Force

Ms. Welch provided the Board with an update on the activities of the Judicial Crossroads Task Force and its four committees. The Board will be kept informed of the progress of the Task Force but not be directly involved in the decision-making process because they will be receiving and reviewing the final report.

Green Initiatives

Ms. Welch informed the Board that nine commissioners have elected to receive Board materials electronically and that the SBM will save printing and postage cost as a result. She encouraged other Board members to join in this effort. Mr. Toy presented a thumb drive to the members who elected to receive materials electronically.

Elections

Ms. Welch reported that the 2010 SBM elections will be conducted electronically, but that members will have the option to request a paper ballot.

ATJ Fund Update

Ms. Welch provided an update on the status of the Access to Justice Fund donations.

Presentation of the SBM Blog

Ms. Welch informed the Board that an SBM Blog is being developed and showed them the prototype.

Representative Assembly Report, Elizabeth M. Johnson, Chairperson

Ms. Johnson provided the Board with a report on the activities of the Representative Assembly. She expressed her appreciation to everyone who was involved in planning the UP tour.

Ms. Johnson indicated that nominations for the Michael Franck award are being sought and that they are due prior to the March RA meeting.

Ms. Johnson indicated to the Board that the RA has begun its review of the reapportionment process.

American Bar Association (ABA) Report, Reginald Turner, State Delegate

In Mr. Turner's absence, Ms. Welch provided the Board with information regarding the mid-winter conference in February and the issues that will be discussed at the House of Delegates meeting in February.

Young Lawyers Section Report, Danielle Mason Anderson, Chairperson

Ms. Anderson provided the Board with a written and verbal report on the Young Lawyers Section activities.

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 11:40 a.m.