



A Winning Combination

"We commend the State Bar for its commitment to fiscal responsibility and the fulfillment of its core functions. The efforts already made, combined with the goals set forth in the strategic plan, will enhance the legal profession and result in an organization that better represents its members and better serves the public at large."

Michigan Supreme Court ADM File Nos. 2002-38 and 2003-14; July 22, 2003

In August 1936, auto magnate Charles Howard and cowboy horse-trainer Tom Smith made a fateful decision that would catapult them onto the winner's circle of horseracing and nationwide renown. By that time, thoroughbred horseracing was perhaps the most popular spectator sport in America and it brought these two very distinct and seemingly incompatible individuals together at just the right moment. Together with an almost incorrigible racehorse and a failing, alcoholic jockey named Red Pollard, these unlikely partners forged a winning team that electrified the American public.

Howard's was a rags-to-riches story of a veteran cavalryman of the Spanish-American War, who later became a bicycle mechanic in New York. Wanderlust caused him to migrate to San Francisco in 1903, where Howard parlayed the 21 cents in his pocket into a down payment on a bicycle repair shop. He became fascinated with the horseless carriage, but

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most of the local citizens viewed the contraption as a civic menace and an unacceptable alternative to travel by horse. It was the unreliability of these new inventions that provided Howard with his first big break. Converting his mechanic's skills into repairing automobiles, he decided to go into the business and talked his way into the first Buick franchise for San Francisco.

Without a single sale in his first two years of business, opportunity knocked by way of the San Francisco earthquake of 1906. Howard opportunistically put his entire three-car inventory to work carrying fireman and supplies and transporting the injured. He could not have asked for better advertising and his next return East was rewarded with a dealership for the entire Western United States. Racing his own stock cars, Howard converted his passion for racing, first bicycles and then automobiles, into a tool for selling cars. During the next 30 years his fortune was made and Charles Howard found yet another outlet for his passion: thoroughbred horseracing.

In comparison to Howard's love of the public spotlight, Tom Smith was an almost belligerently laconic individual. He possessed an uncanny ability to elicit superior performances from the most improbable of equines. After years of breaking mustangs during the Boer War, working as a ranch foreman in Colorado and a training assistant in a traveling Wild West Show, Smith had nursed more than one broken-down horse into top form. By 1934, however, he found himself out of work with a lame horse as severance pay. Smith turned the horse into a winner at the

racetrack and Howard learned of his success through a close friend. Coincidentally, he was searching for a qualified trainer for his stable and hired Smith during their first meeting. They then set about searching for a horse that could satisfy Howard's yearning for a winner. Having made a fortune from the invention that replaced horse travel in this country, it is ironic that Charles Howard secured his place in history by virtue of one of the most successful thoroughbreds of all time.

Ultimately "nothing short of a cultural icon in American,"¹ Seabiscuit at first view would hardly have given the impression that this "undersized, crooked-legged race horse"² could possibly beat some of the best racehorses of the day, let alone a Triple Crown³ winner thought by many to be the greatest racehorse of all time.⁴ Smaller than most of his competitors, Seabiscuit was given to fits of bad temper, overeating, and frequent laziness. Nevertheless, Tom Smith sensed a winning spirit in the horse and persuaded Howard to buy him. Over the next four years, the innovative training regimen of Smith, coupled with Walker's devotion to Seabiscuit's success and the superb horsemanship of Red Pollard, transformed Seabiscuit into an exceptional winner.⁵ Though temperament, appearance, and bad habits should have dictated otherwise, the relentless efforts of the team that cultivated Seabiscuit's latent talents paid off in historic proportions.⁶

The State Bar of Michigan's quest for the winner's circle in the new millennium has little of the drama and entertainment of Seabiscuit's saga, but it will certainly require the

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same combination of teamwork, creativity, and determination. In large part because of the talents and dedication of those individuals assembled to meet that challenge, I am betting on our success. The cover of this month's *Bar Journal* represents a departure from past covers depicting close-ups of incoming presidents. Pictured with me on the cover are a number of the key members of our State Bar staff.⁷ Together with the other officers, commissioners, Assembly representatives, and staff of the Bar, this comprises the team that is committed to the continued and increasing success of our organization. Since the introduction of the State Bar Strategic Plan in 2001, we have been focused upon implementing the goals and objectives that you, the membership, have told us you want.

You should all by now be familiar with our Plan, the prioritized goals of which are the direct result of input from member lawyers and judges throughout the state. Extensive interviews, questionnaires, and commit-

tee deliberations, together with the valuable wisdom of experienced consultants, yielded information and ideas we utilized to map the future of the Bar. The Plan was carefully designed to be responsive to the needs and objectives of our membership as articulated by them. It has been approved unanimously by the Board of Commissioners and the Representative Assembly.

In the fall of 2001, then-President Bruce Neckers jockeyed the Plan from the starting gate and we embarked upon implementing this new direction for the Bar. The first priority of then newly-hired executive director John Berry was to reform the structure and finances of the Bar. This required getting our finances under control, balancing the budget, and reducing or eliminating numerous programs that had either become obsolete or were inconsistent with the Strategic Plan. Bruce saw to it that we simultaneously reviewed our committee structure and eliminated or merged committees where appropri-

ate. The site, programming, and costs of the Annual Meeting were thoroughly analyzed and expenses slashed. We now expect the meeting for 2003 will be cost neutral.

By late 2002, with the reins of leadership in the hands of President Reginald Turner, it became apparent that the ravages of the recent economic downturn would necessitate a dues increase if the Strategic Plan were to be successfully implemented. Under his leadership, we worked closely with Representative Assembly officers Tom Rombach and Dan Levy in formulating a proposal for the first increase in State Bar dues in a decade. John Berry and the staff labored exhaustively to generate cost estimates for each element of the Strategic Plan. In doing so, they made certain that there was no "fat" and there was a sound financial basis supporting the necessary increase.

In fulfilling the Representative Assembly's responsibility under the Supreme Court Rules concerning the State Bar, specially designated



committees of the Assembly meticulously analyzed the figures developed by staff, diligently considered not only the need for raising general dues and fees, but also the necessity for an increase in contributions to the client protection fund and responded to the Supreme Court's request for a review of the status and dues obligations of senior lawyers. Each element of the resulting comprehensive proposal was separately presented to and debated by the Representative Assembly. Each was passed either unanimously or by overwhelming majority.

The \$40 amount, which the Assembly authorized for increase in general dues, was almost precisely the same figure that would have accrued by allowing for the impact of inflation between 1993, the year of the last dues increase, and the fall of 2003.

In late July, the Supreme Court granted the Assembly's requested increases in many respects. A \$15 annual assessment for the client security fund was approved, together with an increase of \$20 to the general dues, which is only one-half of the amount needed to fully implement the Strategic Plan. The Court also authorized a \$20 increase in the discipline portion of the annual dues. Further, the Court determined that lawyers who have practiced for a least 50 years will be exempt from general dues, however, they decided to impose the full amount of the client security fund and discipline assessments on all State Bar members, without exemption.

I certainly appreciate that any increase in the cost of doing business is seldom received with jubilation. On the other hand, I cannot think of virtually any other business or personal expense that has not increased over the past 10 years. For example, the cost of two University of Michigan football tickets in the fall of 1993 was \$50. The same two tickets today cost \$98 for end zone seats, an increase of almost 100 percent. A mere four years ago in the fall of 1999, a Michigan State football ticket was priced at \$28. Today the same ticket costs \$44, a 63 percent increase in that short time span. By comparison, the overall increase since 1993 in the cost of maintaining a license to practice law will for most lawyers amount to approximately 21 percent. The increase in general dues granted by the Supreme Court amounts to a mere 12.5

percent increase. I expect most would agree that, by almost any measure, we have paid a small price for the privilege of practicing law over the past decade.

Though some may have breathed a sigh of relief upon hearing of the smaller than requested dues increase for 2003–04, I do not wish to mislead our members into thinking that we can settle for this amount. Because we cannot fully implement the Strategic Plan objectives without the full dues increase, we must return to the Supreme Court at the earliest opportunity to seek the balance of the amount proposed by the Representative Assembly. The longer we wait to do that, the less the possibility that we can get by with only an additional \$20 increase. In other words, the longer we wait, the greater amount of money it will take to finance the anticipated costs and benefits associated with the Strategic Plan.

Consequently, I would expect to act quickly and to return to the Supreme Court to request an identical general dues increase for 2004–05. In the event the request is granted, the additional \$20 would effectuate an increase in dues over 2002–03 of approximately 29 percent to most State Bar members. We also hope to obtain the inflationary component requested by the Assembly. This change would preclude the necessity for our staff and the Assembly to periodically devote the substantial time required to develop and submit such petitions to the Supreme Court.

The Strategic Plan contains a provision for cyclical review every three years. My predecessors, Bruce Neckers and Reginald Turner, have led us through the various turns on our track toward successful completion of this cycle. During the next year, I expect that the Board and staff will analyze our successes, together with any shortcomings, and chart the course for the next three years. As we round the final turn into the homestretch of our initial plan cycle, it is gratifying that the Supreme Court has indicated its confidence in the direction of the State Bar, as reflected by the Court's comments quoted above. In complementing our progress, the Court noted that present economic conditions and the uncertainties of the fiscal effect of the changes they have approved warrant proceeding cautiously with respect to additional dues. Nev-

ertheless, the Court did indicate a willingness to review the matter of general dues in the future.

The tremendous success that Seabiscuit was able to achieve on the race track was the direct result of the persistent efforts of many individuals tending to various aspects of the care and training of the legendary horse. Charles Walker not only relied upon the hard work of Tom Smith and Red Pollard, but many other jockeys, walkers, grooms, stable hands, and trainers, each of whom played a role in attaining excellence. Moreover, the path to success was expensive and necessitated adequate financing. Likewise, in order to achieve the goal specified by our members in the Strategic Plan, our success will require diligent work and sufficient funding. I am confident that our State Bar team will bring us across the finish line in a winning fashion. I look forward to working with them and to serving our members in our quest to improve our Bar, our profession, and the public we serve. ◆

FOOTNOTES

1. *Seabiscuit An American Legend*, Laura Hillenbrand, 2001; preface.
2. *Id.*
3. Triple Crown: Kentucky Derby, Preakness, and Belmont Stakes.
4. War Admiral was sired by the renowned Man o' War, and typically left the competition at the starting gate, often leading races wire-to-wire. The public had cried out for a race between Seabiscuit and War Admiral for many years and the two-horse race was finally arranged in November 1938. Won by Seabiscuit in record time by four lengths, it is regarded by many followers of the sport as the greatest horserace in history.
5. Of the 42 races Seabiscuit participated in after Smith became his trainer, he won 24, with seven second place finishes and seven thirds. He was in the money an astonishing 38 out of 42 races, with a winning percentage of over 57 percent. This record is all the more amazing when considering that Seabiscuit was typically "handicapped" with as much as 20 pounds or more of excess jockey and equipment weight than his competitors.
6. In his last race at the Santa Anita Handicap, known as the hundred-grander [\$100,000 winner take all], Seabiscuit turned in a track record-shattering performance.
7. Pictured [front row from left to right] are Lisa Allen-Kost, director of member programs & services; Scott S. Brinkmeyer, president; John T. Berry, executive director; Glenna Peters, executive coordinator; [back row from left to right] Janet Welch, general counsel; James Horsch, director of finance & administration; Kathleen Fox, director of human resources; Nancy Brown, director of communications; and Thomas Byerley, director, professional standards.