BOARD OF BAR COMMISSIONERS
JULY 15, 2010 MEETING MINUTES
Inn of the Mountain Gods, Ruidoso, NM

MEMBERS PRESENT:	Henry A. Alaniz Erika Anderson Daniel J. Behles David M. Berlin Roxanna M. Chacon Martha Chicoski Andrew J. Cloutier Dominic E. Dutton Danny W. Jarrett Twila B. Larkin	J. Brent Moore Hilary A. Noskin Jessica A. Perez Wesley O. Pool Stephen S. Shanor Raynard Struck Deborah R. Tope Hans Voss Carolyn A. Wolf
MEMBERS ABSENT:	Gary D. Alsup Michelle Lujan Grisham R. David Pederson	
OTHERS PRESENT:	Kris Becker Ian Bezpalko Briggs Cheney Joe Conte Veronica Cordova	Rob Koonce Christine Morganti Judge Sarah Singleton Richard Spinello

1. Approval of April 30, 2010 Meeting Minutes

Commissioner Dutton made a motion to approve the April 30, 2010 meeting minutes; the motion was seconded and it passed.

2. Finance Committee Report

The Finance Committee met prior to the Board meeting, and Secretary-Treasurer Drew Cloutier reported on the Committee's discussion and recommendations as follows:

A. Accepted the May 2010 financials and executive summaries;
B. Reviewed the accounts receivable aging report;
C. Reported that the State Bar has been paying $2,200 per month to Wells Fargo and the services they have been providing are diminishing, so the committee decided to pursue other banking institutions and sent out an RFP. Six banks responded and a subcommittee interviewed three—First Community, the Bank of Albuquerque and the US New Mexico Federal Credit Union. The committee discussed whether the mortgage with Wells Fargo would be affected if the Bar switched its banking to the USNMFCU and it was determined that it would not have an effect on the mortgage; Commissioner Cloutier made a motion to accept the RFP from the USNMFCU and the motion passed;
D. Reported that the Bar's mailing machine lease expires in September and the cost to renew the lease will be $3,300 per quarter or $13,000 annually, and the committee recommended approval; Commissioner Cloutier made a motion to approve extending the Bar's mailing machine lease for 39 months, and the motion passed; and
E. The committee recommended funding the 16 pro bono committees up to $24,000 annually to come from contributions on the dues form; Commissioner Cloutier made a motion to approve funding up to $24,0000 for the 16 pro bono committees to be distributed at the discretion of the ATJ Coordinator, and the motion passed.

3. Acceptance of Financials

Commissioner Cloutier made a motion to accept the May 2010 financials; the motion was seconded and it passed.

4. Acceptance of 2009 Audit

Commissioner Cloutier reported that the 2009 Audit prepared by REDW, which was presented to the Finance Committee, was clean with no exceptions or a management letter. The auditors cautioned the Bar regarding the use of cash and reserves. Commissioner Cloutier made a motion to accept the audit; the motion was seconded and it passed. Commissioner Behles stated that there haven't been any challenges under *Popejoy* or *Keller* and if a motion should be filed to remove those requirements. Executive Director Joe Conte stated that the Bar looked at being relieved of those requirements, but determined that it wasn't worth the negative impact on the Bar. Timeslips are also helpful to directors to be able to track staff time. Commissioner Cloutier noted that the Bar is no longer having the auditors review Timeslips and that has reduced the Bar's costs for the audit. Following discussion, no action was taken.

5. Bar Center Wall of Distinction Update

Chair Henry Alaniz reported on a proposal for the Justice Gene E. Franchini Wall of Distinction/Honor and made a motion to approve an expenditure up to $1,500 for a wooden plaque to be placed over the windows in the lobby of the Bar Center. Additional honorees will either be placed on wooden plaques at a cost of $380 or etched into the glass at a cost of $300, and a committee to be appointed will select the honorees. The motion was seconded and it passed.

6. Executive Session

Commissioner Cloutier made a motion to go into executive session to discuss personnel issues. In open session, it was reported that action taken in executive session was tabled to the September meeting.

7. Bylaws and Policies Committee Report and Recommendations

Chair David Berlin reported on the June 25th meeting and the committee's recommendations as follows:

A. Dues Form

At the April Board meeting, the Board directed the committee to develop criteria for what types of entities would qualify to be listed under Section 7, Contributions. The committee recommended eliminating section 7 and amending Section 3 to coincide with the language in the Pro Bono Public Service Rules. Commissioner Berlin made a motion to approve eliminating Section 7 and amending Section 3 to reference the Pro Bono Public Service Rules, and the motion passed. Commissioner Cloutier made a motion to eliminate the first sentence of Section 4 and the motion passed.

B. Fee Waiver Application

The Board requested the committee to review the application regarding limiting a fee waiver to two consecutive years and to resolve the conflict in Section 2(a) regarding seventy (70) years of age or older. The committee recommended an amendment to the first paragraph to state "unless I am seventy years or older." The committee was also requested to amend the language in Sections (b) and (c) regarding hardship and impairment. The committee recommended removing Section (b) regarding a physical or mental impairment. Commissioner Berlin made a motion to approve the committee's recommendations. Following discussion regarding a hardship, Commissioner Dutton made a motion to refer the issue back to the Bylaws and Policies Committee for further review and the motion passed.

C. Legal Service Discount Application

The committee discussed the discount for which no one currently qualifies because of the income amount for a full-time employee and the fact that the legal service agencies usually pay for their employees' dues, and the committee recommended eliminating the discount. Commissioner Berlin made a motion to eliminate the legal service discount and the motion passed.

D. Elder Law Section Bylaw Amendment

The Elder Law Section requested a bylaw amendment to allow the chair to serve more than one time. The committee amended the proposed language to allow the chair to serve more than one term but no more than two consecutive terms and recommended approval. Commissioner Berlin made a motion to approve the amended language to the bylaws and the motion passed.

E. Criminal Law Section

The committee discussed whether the Criminal Law Section should continue as a section and/or whether they should be removed from the dues form, since no fees have been collected over the last two years. The committee recommended including them on the dues form for 2011 and collecting their dues; however, if they don't submit an annual report this year, they will be placed on the sunset list for the following year. Commissioner Berlin made a motion to approve the recommendation and the motion passed.

The committee also recommended adding the below new section to Article IX. Thirty days' notice is required prior to approval, so the amendment will voted on at the September meeting.

> **Section 9.5 Bylaw and Policy Compliance by Sections and Committees.** Sections are required to follow their Bylaws, and sections and committees must comply with the Bylaws and Policies of the State Bar of New Mexico. Failure to do so may result in being placed on the sunset list to be heard at the next meeting of the Board of Bar Commissioners.

The Committees Policy was amended to include the same language and the committee recommended approval. Commissioner Berlin made a motion to approve the amendment to the Committees Policy and the motion passed.

8. Civil Legal Services Commission Appointment

One vacancy existed on the Civil Legal Services Commission for a three-year term and a notice was published in the *Bar Bulletin*. Only one letter of interest was received from Cindy L. Gray, the Bar's current appointee, requesting reappointment. Commissioner Larkin made a motion to reappoint Cindy L. Gray to the Commission for a three-year term; the motion was seconded and it passed.

9. Governmental Affairs Committee Report and Recommendation

The GAC met on July 7 to discuss the New Mexico Foundation for Open Government's request to support its opposition to two of the public-access recommendations approved by the Judicial Information Systems Council. Chair Alaniz reported that the committee is meeting next month with representatives from the NM Foundation for Open Government and the Jiffy Committee and he made a motion to table a recommendation from the committee until the September meeting.

10. Legal Research Committee Report

This committee was appointed at the April Board meeting to review the Casemaker contract and to look at other legal research options, including Fastcase, Lexis, Compilation Commission, etc. The committee met on May 28 and Chair Twila Larkin reported on the meeting. The committee is meeting with all of the

companies following the Board meeting, since they'll be at the Annual Meeting, to obtain information on the costs and services that they each offer.

11. Lawyers Assistance Committee Discussion

Briggs Cheney reported on the activities of the Lawyers Assistance Committee and requested the Board's support for program enhancement in 2011. He requested that the State Bar hire a full-time professional who is also trained to deal with members who suffer from depression. Executive Director Joe Conte asked the Board to keep this in mind when budgeting for 2011.

12. Access to Justice Commission Report

Judge Sarah Singleton reported on the activities of the ATJ Commission, including instituting mandatory IOLTA two years ago and modifying the rule regarding pro bono hours to recommend a donation of $500 instead of $300 last year. She noted that 3,700 members reported that they did pro bono work for a total of $225,000. Only 52 percent are complying by either volunteering their time or making donations. She asked the commissioners to encourage members in their districts to participate in the pro bono committees. The smaller districts, in particular, have difficulty obtaining participation. There is an added problem in that many of the smaller districts are composed mainly of government lawyers who may have difficulty serving without violating their statutory duties required by their jobs, and in some cases, annual leave must be taken in order to perform pro bono work.

13. UPL Task Force Report and Proposed Rule Changes

Chair Cloutier reported on the June 22nd UPL Task Force meeting and presented the proposed UPL rule changes. He requested the Board to authorize the task force to send the rules on to other entities that would be affected by the rules before the Board takes action, including the Supreme Court Rules of Professional Conduct Committee, ATJ Commission, Disciplinary Board, UNM Law School, etc. Commissioner Wolf made a motion to authorize the committee to send the proposed changes to those entities; the motion was seconded and it passed.

14. Appointment of Public Defender Special Committee

In follow up to Hugh Dangler's presentation at the April Board meeting, President Shanor requested volunteers to serve on a special committee to look at the public defender issues reported by Mr. Dangler. Commissioners Berlin, Chicoski and Wolf volunteered to serve on the committee.

15. President's Report

President Shanor reported on the following:

A. Annual Meeting

There were close to 400 registrants and 14 past presidents attending the Past Presidents' Dinner. He distributed a sign-up sheet for the CLE breakouts and asked commissioners to attend and make introductions when necessary.

B. CLE at Sea Alaskan Cruise

There were close to 70 attendees for the cruise, which was held June 11-18.

C. Mentorship Program Report and Update

He met with Pia Salazar from the NM Trial Lawyers Association, and they seem favorable but want to keep the Bill Kitts mention. He also met with Justice Chavez and the Disciplinary Board. Chief Justice Daniels plans to hold town hall meetings to look at discovery abuses.

D. BBE and CPF

He will be meeting with the local bars to discuss their assistance with investigations.

E. Videoconferencing

There have been issues with the system and are still some bugs to be worked out.

F. Local Bar Visits

He is planning to meet with the local bars in Taos and Farmington in the next couple of months.

G. Regulatory Summit

He will be meeting with the regulatory boards on August 17.

16. President-elect Report

President-elect Jessica Perez reported on the following:

A. 2011 Annual Meeting

The 2011 Annual Meeting is proposed for July 14-16 at Buffalo Thunder Resort in Pojoaque in conjunction with the 125th anniversary of the Bar. President-elect Perez made a motion to hold the annual meeting at Buffalo Thunder Resort, July 14-16; the motion was seconded and it passed.

B. 2011 CLE Trip

The 2011 CLE Trip will be to California Wine Country featuring San Francisco, the Napa Valley Wine Train, and Napa and Sonoma Valleys and is scheduled for September 16-22, 2011.

C. Membership Survey

A membership survey is planned for next year and the cost will be approximately $10,000.

D. Board Retreat

A full board retreat will be held November 4-6, in conjunction with the November 5th Board meeting.

17. Executive Director Report

Executive Director Joe Conte presented a report at the meeting. He attended the MCLE Board Meeting and reported that the MCLE Board unanimously supported the mentorship program. He stated that the Bar is looking into purchasing a printing press that will produce a four-color *Bar Bulletin* at a cost of approximately $25,000 per year. The new ATJ Coordinator will start the end of July. REDW completed its assessment of the accounting processes and software and more information will be provided at the September meeting.

18. State Bar Newsletter and Department Reports

The June State Bar Newsletter was included in the materials and the directors reported on their department highlights.

19. New Business

Commissioner Noskin requested that reciprocity be readdressed and a discussion of the history of the recommendations from the BBC to the NM Supreme Court ensued. Following discussion, no action was taken.

There being no further business, the meeting was adjourned.