

Oregon State Bar
Meeting of the Board of Governors

June 22, 2012

Open Session Minutes

The meeting was called to order by President Mitzi Naucler at 1:09 p.m. on June 22, 2012. The meeting adjourned at 5:00 p.m. Members present from the Board of Governors were Jenifer Billman, Pat Ehlers, Hunter Emerick, Michelle Garcia, Mike Haglund, Theresa Kohlhoff, Tom Kranovich, Steve Larson, Audrey Matsumonji, Maureen O'Connor, Travis Prestwich, Richard Spier and David Wade. Staff present were Sylvia Stevens, Rod Wegener, Helen Hirschbiel, Jeff Sapiro, Kay Pulju, Susan Grabe, Mariann Hyland, Karen Lee, Judith Baker, Kateri Walsh, and Camille Greene. Others present were Tim Martinez, PLF Public Board Member, Bill Carter, PLF Board Chair, Norman Williams, OLF President, David Eder, ONLD Chair-elect, and Representatives from Oregon newspapers: Duane Bosworth, Davis Wright Tremaine representing Western Newspapers, Grady Singletary, *Medford Mail Tribune*, Heidi Hagemeyer, *Bend Bulletin*, Laurie Hieb, ONPA Executive Director, and Jeb Bladine, ONPA Board Member.

1. Call to Order/Finalization of the Agenda

2. Department Presentations

- A.** Ms. Hyland presented an overview of the Diversity and Inclusion (D&I) department and its new strategic direction and branding. She highlighted its key program, Opportunities for Law in Oregon (OLIO), and its goals for and support of Oregon law students. The D&I department is involved in multiple community events and has established a presence on key social media sites. Ms. Hyland encouraged board members to attend all or part of the August OLIO orientation program and to donate funds for the event.

3. Reports

A. Report of the President

As written.

B. Report of the President-elect

As written.

C. Report of the Executive Director

ED Operations Report as written.

D. Board Members' Reports

Several board members reported orally about their recent activities.

E. Director of Diversity & Inclusion

Ms. Hyland included her report on the recent projects and programs of the Diversity & Inclusion Department in her earlier presentation.

F. MBA Liaison Reports

Ms. Kohlhoff attended the May 2012 MBA Board meeting and had no new information to report.

G. Oregon New Lawyers Division Report

Mr. Eder reported on the ONLD's participation in OLIO and plans to be more involved in the program. ONLD has been very active with Legal Aid in 2012, yet few new lawyers gained employment opportunities compared to the experience in 2011. ONLD continues to hold its meetings around the state where many new lawyers contacted them to become involved.

4. Professional Liability Fund

Mr. Martinez gave a general update and presented the financial report. The assessment is under review, and it is unknown at this time if the PLF will ask for an increase. The PLF won its lawsuit against the Department of Health and Human Services, and the time to appeal has passed. Mr. Carter addressed the issue of data loss coverage. The PLF is exploring the possibility of adding this coverage as part of the excess program.

5. Emerging Issues Discussion

Ms. Naucler led a discussion on the frequency and location of board meetings. To maximize the cost-benefit of out-of-town local bar socials, it was suggested that local bars be notified of board meetings in their region and encouraged to attend. She asked board members to consider whether committees should meet less often or be reconfigured to increase effectiveness. Suggestions or comments should be sent to the Executive Director. It was also requested that the staff explore video conferencing for BOG meetings.

6. BOG Committees, Special Committees, Task Forces and Study Groups

A. Policy and Governance Committee

Ms. Hirschbiel presented the Policy & Governance Committee's recommendation that the Board adopt the amendments to Article 27 of the Oregon State Bar Bylaws regarding Unclaimed Lawyer Trust Account claims reviews. **[Exhibit A]**

Motion: Mr. Wade motioned to waive the one-meeting notice, Mr. Kranovich seconded, and the board voted unanimously to approve the waiver. The board voted unanimously to approve the recommendation of the Policy and Governance Committee and adopt the amendment.

Ms. Stevens informed the board of the Legal Ethics Committee's recommended changes to the Rules of Professional Conduct. The proposed amendment to RPC 5.4 is intended to alleviate concerns about the propriety of sharing fees under the new LRS business model. While there is considerable authority in the Comment to the ABA rules and in other jurisdictions, the LEC believes the proposed new language will resolve any questions in Oregon.

Motion: Mr. Haglund moved, seconded by Mr. Wade, to present the LEC proposal for amending RPC 5.4 to the HOD in November. The motion passed unanimously.

Ms. Stevens reviewed the LEC's recommendation for amending Rules 7.1 – 7.5, noting that the idea came from a failed HOD resolution in 2009. The LEC reviewed the report of the Advertising Task Force from August 2010 but opted for a less sweeping change in the rules. The proposal recommended by the LEC is to adopt the language of the ABA Model Rules 7.1 – 7.5. After discussion, there was a consensus that the proposed advertising rules should be reviewed by the Policy & Governance Committee in July and should also be circulated to the membership for comment before the BOG considers them again in August.

B. Budget and Finance Committee

Motion: The board voted unanimously to approve the committee motion to add high-yield funds to the bar's investment portfolio.

C. Public Affairs Committee

Mr. Larson presented a legislative update. The OSB law improvement proposals are at Legislative Counsel's office and bill drafts should be returned to the bar in mid-August.

7. Other Action / Discussion Items

A. Illinois State Bar Association Resolution/Report re: ABA Policy

Ms. Stevens presented the Illinois State Bar's request for support of its resolution concerning affirmation and re-adoption of existing ABA policy for the House of Delegates at the ABA Annual Meeting in August 2012.

Motion: Mr. Emerick moved, Mr. Haglund seconded, and the board voted unanimously to co-sponsor the ISBA's resolution for the ABA HOD. **[Exhibit B]**

B. Centralized Legal Notice System

The newspaper representatives in attendance introduced themselves. Ms. Naucner confirmed that the board had received their written submissions. She then invited board members to solicit additional information from the newspaper representatives. Mr. Prestwich said he would like a list of all community newspapers in the state showing the percentage of advertising revenue they receive from legal notices and what they charge to publish legal notices. Ms. Kohlhoff asked for more information on the free listings mentioned, and what would happen to them if a central notice system was established. Mr. Wade inquired about the number of "hits" on the ONPA's online notice system.

Mr. Haglund expressed his concern that the Central Notice proposal is a big project that the bar might not be prepared to face and it is not clear that we will have universal support even from our members. Obstacles he identified include: high start-up costs, undefined future costs, operating an unfamiliar business and significant political opposition. Ms. Matsumonji shared Mr. Haglund's concerns and also wondered whether an online system will adequately reach

rural communities where digital access may be limited. Mr. Kranovich concurred, and suggested this may not be an appropriate project for the bar.

C. CLE Seminars Business Plan

Ms. Lee presented the CLE Seminars Department's new business plan to the board, which emphasizes electronic delivery over live presentations, in line with recent trends. There will also be a new "annual pass" to replace the "season ticket." Ms. Lee explained that the plan is ambitious in its projections, but she is cautiously optimistic it will be successful.

D. Legal Publications Author / Editor Survey Summary

Ms. Krushke reported on the OSB Legal Publications Department survey sent to 661 authors and editors who contributed to books published in the last five years. They received 247 responses. Just over 75% of the respondents had volunteered as an author or editor more than once, and almost 15% had volunteered six or more times.

E. LRS Policy & Procedure Amendments

Ms. Hirschbiel presented recommended changes to the LRS Policies and Procedures to address concerns that the audit requirements might result in lawyers violating their duty of confidentiality to clients. The board also discussed the extent to which LRS information falls within the confidential submissions exception to the public records law, since it is a voluntary program.

Motion: Mr. Wade moved, Ms. Matsumonji seconded, and the board voted unanimously to approve the recommended changes. **[Exhibit C]**

F. OGALLA Request to Support ABA Resolution

Ms. Naucner presented the Oregon Gay and Lesbian Lawyers Association's request that the board support its proposed amendment to ABA HOD Resolution 108 urging accommodation for military spouse lawyers. OGALLA believes any accommodation should be extended to domestic partners.

Motion: Mr. Spier moved, Mr. Prestwich seconded, and the board voted unanimously to support the OGALLA request.

G. Client Security Fund Claims Recommended for Payment **[Exhibit D]**

Ms. Stevens presented the claims recommended for payment by the Client Security Fund Committee. She explained that the total of pending claims exceeds the balance in the Fund by approximately \$250,000. The committee recommends that the BOG approve claims as they are presented, taking funds from general reserves if necessary, which will be reimbursed from the 2013 assessment. The board members expressed concern about how the bar could avoid this kind of a problem in the future, whether there should be a per-lawyer cap on claims, and whether there are alternatives to raising the annual CSF assessment. The board asked that the CSF Committee develop recommendations for the board to consider in August.

Motion: Mr. Wade moved, Mr. Haglund seconded, and the board voted unanimously to approve the four non-Gruetter Client Security Fund Claims for repayment.

Motion: Mr. Haglund moved, Mr. Wade seconded, and the board voted 6-5 to approve the eight Gruetter Client Security Fund Claims for repayment. Mr. Wade, Mr. Haglund, Ms. Kohlhoff, Ms. Naucler, Ms. Billman, Ms. Matsumonji and Mr. Spier voted in favor. Mr. Emerick, Mr. Kranovich, Mr. Larson, Mr. Ehlers and Mr. Prestwich were opposed.

H. Proposed Legal Job Opportunities Work Group

Mr. Haglund summarized the reasons that he and Mr. Knight jointly recommend the formation of a fast-track BOG Task Force, tentatively named the Legal Job Opportunities Work Group.

Motion: Mr. Haglund moved, Mr. Prestwich seconded, and the board voted unanimously to approve the formation of the Legal Job Opportunities Work Group. **[Exhibit E]**

I. MCLE Request for Review

Ms. Stevens explained Kevin Lucey's request for a waiver of the late fee assessed for his failure to complete his child abuse reporting credit during his reporting period.

Motion: Mr. Wade moved, Mr. Emerick seconded, and the board voted unanimously to uphold the MCLE Committee's decision to deny Kevin Lucey's request for a waiver of the \$200 MCLE late fee.

J. OSB Diversity Branding

Ms. Hyland and Mr. Kranovich presented the department's Diversity Definition, Tag Line and Business Case Statement for approval by the board.

Motion: Mr. Wade moved, Mr. Prestwich seconded, and the board voted unanimously to accept the proposal.

8. Closed Sessions – see CLOSED Minutes

A. Judicial Session (pursuant to ORS 192.690(1)) – Reinstatements

B. Executive Session (pursuant to ORS 192.660(1)(f) and (h)) - General Counsel/UPL Report

Motion: Mr. Kranovich moved, Mr. Larson seconded, and the board voted unanimously to approve the closed agenda.

9. Consent Agenda

No appointments were submitted for approval.

10. Good of the Order (Non-action comments, information and notice of need for possible future board action)

None.

Article 27 Unclaimed Lawyer Trust Account Funds

Section 27.100 Purpose

This policy is established to provide direction and limits for the administration, disbursement, and claims adjudication of unclaimed lawyer trust account funds appropriated to the Bar. For the purposes of this section, "unclaimed lawyer trust account funds" are defined to mean all funds allocated to the bar pursuant to ORS 98.386(2).

Section 27.101 Administration

(a) All unclaimed lawyer trust account funds appropriated to the Bar shall be received and held in a separate fund in the manner authorized by Section 7.1.

(b) All unclaimed lawyer trust account funds shall be invested in the manner described at Section 7.4. The Legal Services Committee may provide recommendations on the investment of unclaimed lawyer trust account funds to the Investment Committee.

Subsection 27.102 Disbursement

(a) The Executive Director and the Chief Financial Officer are authorized and empowered to make disbursements of unclaimed lawyer trust account funds appropriated to the Bar to:

(1) Claimants for the payment of claims allowed under ORS 98.392(2), pursuant to Subsection 27.103; and

(2) The Bar, for expenses incurred by the Bar in the administration of the Legal Services Program, only if the Executive Director determines such disbursements will not impair the Bar's ability to make payments for claims allowed pursuant to Subsection 27.103 from unclaimed lawyer trust account funds.

(b) The Budget & Finance Committee, after seeking the advice of the Legal Services Committee, may recommend that the Board make disbursements of unclaimed lawyer trust account funds appropriated to the Bar to the Legal Services Program established under ORS 9.572 for the funding of legal services. The Board may authorize ~~is authorized to make such~~ disbursements ~~hereunder~~ only if the Board determines the disbursements will not impair the Bar's ability to make payments for claims allowed pursuant to Subsection 27.103 from unclaimed lawyer trust account funds.

Subsection 27.103 Claim Adjudication

(a) When the Oregon Department of State Lands forwards a claim for unclaimed lawyer trust account funds to the Bar for review, ~~a special committee appointed by the Board~~ the Bar shall ~~review the claim and~~ approve or deny the claim within 120 days after the completed claim form and all necessary information to process the claim is received. If a claimant is requested to provide additional information and fails to do so within 90 days after the request is made, the Bar may close the file without further action. A claim shall be approved if a preponderance of the evidence proves the claimant is legally entitled to the unclaimed lawyer trust account funds. A claim shall be denied if the preponderance of the evidence does not prove the claimant is legally entitled to the property.

(b) The Executive Director or the Executive Director's designee shall decide whether to approve or deny all claims for amounts under \$500. Claims for amounts of \$500 or more must be reviewed and approved or denied by a special committee appointed by the Board.

~~(bc)~~ The Bar shall utilize claim forms published by the Oregon Department of State Lands. To evaluate whether to approve or deny a claim under Subsection 27.103(a), the Bar adopts the claim adjudication rules promulgated by the Oregon Department of State Lands at OAR 141-040-020; and OAR 141-040-0211 through OAR 141-040-0213. Where the rules reference the "Department" they shall be deemed to refer to the Bar.

~~(ed)~~ If a claim is approved pursuant to this Subsection, the ~~special committee~~ Executive Director or designee shall notify the claimant ~~and the Executive Director~~.

~~(de)~~ If a claim is denied, the ~~special committee~~ Executive Director or designee shall notify the claimant ~~and the Executive Director~~. The notice of denial shall include the specific reason for denial and shall include a notice of an opportunity to appeal the denial to the Board.

~~(ef)~~ A claimant may appeal the denial of a claim by making a request in writing ~~addressed~~ to the Executive Director ~~of the Bar~~, within 60 days after the date of written notice of denial of the claim. A request for appeal shall be in writing and shall identify issues of law or fact raised by the denial and include a summary of the evidence of ownership on which the claim was originally submitted. The Board will review each request for appeal at its next scheduled board meeting following receipt of the request and respond through the Executive Director in writing. The Board's response will include an explanation of the Board's reasoning.

~~(fg)~~ Additional evidence shall not be admissible on appeal to the Board, except by mutual consent of the Board, the claimant, and any other parties to the proceeding. If such additional evidence is not admitted, the Board shall allow the claimant to resubmit the claim to the special committee with the new evidence.

~~(gh)~~ The Executive Director or designee shall notify the claimant of the Board's decision on appeal. ~~If the Board approves a claim on appeal, the Board shall notify the claimant and the Executive Director.~~

~~(hi)~~ A holder of property who has delivered unclaimed lawyer trust account funds to the Bar pursuant to ORS 98.386(2) may make payment to or delivery of property to an owner and file a claim with the Bar for reimbursement. The Bar shall reimburse the holder within 60 days of receiving proof that the owner was paid. The Bar may not assess any fee or other service charge to the holder. As a condition of receiving the funds from the Bar, the holder shall agree to assume liability for the claimed asset and hold the Bar harmless from all future claims to the property.

~~(ij)~~ On a monthly basis, the Executive Director or ~~the Executive Director's~~ designee shall provide a listing of the ~~resolution of~~ claims resolved to the Department of State Lands. The Executive Director also shall provide an annual report of the claims resolved to the Board.



**ILLINOIS STATE
BAR ASSOCIATION**

John G. Locallo • *President*
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RECEIVED

MAY 17 2012

Oregon State Bar
Executive Director

May 14, 2012

Ms. Sylvia Stevens
Executive Director, Oregon State Bar Association
16037 SW Upper Boones
Ferry Road
Tigard, OR 97224

Re: ISBA Resolution with Report Concerning Affirmation and Re-adoption
of Existing ABA Policy

Dear Ms. Stevens:

The Illinois State Bar Association is offering a resolution for action by the House of Delegates at the ABA Annual Meeting in August 2012 in Chicago, Illinois. This resolution would affirm and readopt the existing ABA policy adopted in July 2000 that:

The sharing of legal fees with non-lawyers and the ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession. The law governing lawyers that prohibits lawyers from sharing legal fees with non-lawyers and from directly or indirectly transferring to non-lawyers ownership or control over entities practicing law should not be revised.

Copies of the ISBA's Resolution, Report, Executive Summary and General Information as filed with the American Bar Association Division of Policy Administration on May 4, 2012, are attached.

The Illinois State Bar Association urges and welcomes your association's support and co-sponsorship of this very important resolution.

Amendments to Model Rules 1.5 and 5.4 have been recommended by the Commission on Ethics 20/20 which contravene the existing policy of the American Bar Association. The Commission has indicated that it is considering whether to propose such amendments to the House in February 2013 and it should be made clear prior to those deliberations that the existing policy of the ABA continues and is readopted. The proposals that have been offered for consideration have been given great public distribution, possibly resulting in the public perception that the profession is interested in allowing non-lawyers to invest in and own law firms. This perception will be negated by the adoption of the resolution proposed. It would be helpful to the further consideration of these matters by the Commission that the House make it clear that its current policy is affirmed and readopted.

If you would like to discuss this matter further, do not hesitate to contact us at:

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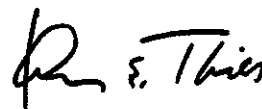
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We look forward to working with you on this important issue.

Very truly yours,



John G. Locallo
President



John E. Thies
President-elect

Enclosures

AMERICAN BAR ASSOCIATION
ILLINOIS STATE BAR ASSOCIATION
REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

1 RESOLVED, that the policy adopted by the American Bar Association in
2 July, 2000, to wit:

3
4 The sharing of legal fees with non-lawyers and the ownership or
5 control of the practice of law by non-lawyers are inconsistent with the
6 core values of the legal profession. The law governing lawyers that
7 prohibits lawyers from sharing legal fees with non-lawyers and from
8 directly or indirectly transferring to non-lawyers ownership or control
9 over entities practicing law should not be revised.

10
11 is hereby affirmed and re-adopted as the policy of this Association.

REPORT

The proposed resolution would affirm and re-adopt certain core principles and values of the legal profession identified in a 2000 ABA House of Delegates adopted Resolution (the "2000 HOD Resolution"). The 2000 HOD Resolution reads in part:

The sharing of legal fees with nonlawyers and the ownership or control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession. The law governing lawyers that prohibits lawyers from sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

Affirmation and re-adoption of these core principles and values is important now, particularly at a time when technological advances and globalization are pressuring the profession to lessen its commitment to the public and to professional independence.

I. The 2000 House of Delegates Resolution

The 2000 HOD Resolution urged jurisdictions to implement and preserve certain core principles and values of the legal profession. Those principles and values included: (1) a number of specifically identified practice values such as undivided loyalty to a client, competence, and confidentiality; (2) lawyers are a single profession subject to individual jurisdictions' law governing lawyers; (3) preservation of the legal professions' core principles and values is essential to the proper functioning of the American justice system; (4) disciplinary agencies should reaffirm their commitment to vigorously enforcing their jurisdictions' law governing lawyers; (5) each jurisdiction should reevaluate and refine, if necessary, the definition of the "practice of law"; (6) each jurisdiction should retain and enforce those laws prohibiting the practice of law by entities other than law firms; (7) sharing legal fees with, and the ownership and control of the practice of law by, nonlawyers is inconsistent with the core values of the legal profession; and (8) sharing legal fees with nonlawyers and directly or indirectly transferring ownership and control of entities practicing law is prohibited and should not be revised.

The 2000 HOD Resolution was a response to certain proposals made by the ABA's Multi-Disciplinary Practice Commission to facilitate the provision of nonlegal services by law firms (and conversely, the provision of legal services by nonlegal providers). The 2000 HOD Resolution was an important

statement of professional independence, and a clear recognition of the preeminence of the public interest in the practice of law. It remains sound today.

II. The 2012 Proposed Resolution

The proposed resolution provides that the ABA is affirming and re-adopting portions of the 2000 HOD Resolution, namely, the following principles and values: (1) sharing legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession; and (2) prohibitions against lawyers sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

Highlighting these two principles is not intended to minimize the other identified principles and values. As explained below, referencing these two specific principles and values is important as a means to provide continued guidance to the ABA when considering revisions to existing Model Rules of Professional Conduct or other positions of the Association.

III. The Need for Policy Affirmation and Re-Adoption

A. Commission on Ethics 20/20

In 2009, the ABA established its "Commission on Ethics 20/20" (the "Commission") to consider the impact of technology and globalization on the legal profession and determine whether or not such influences warrant changes to the ABA's Model Rules of Professional Conduct ("Model Rules"). Since 2009, the Commission has circulated numerous materials for consideration within the legal community on these subjects, including both: (1) recommendations for changes to the Model Rules; and (2) "working drafts" of proposals for changes to the Model Rules.

On December 2, 2011, the Commission issued two letters. One was titled "For Comment: Discussion Paper on Alternative Law Practice Structures" which suggested the District of Columbia approach to permitting lawyer-nonlawyer partnerships with a cap, however, on nonlawyer ownership. The second letter titled "For Comment: Initial Draft Proposals on Choice of Law Issues Relating to Nonlawyer Ownership Interests in Law Firms" called for changes to Model Rules 1.5(e) and 5.4(a) to permit fee sharing by a lawyer with another firm that has nonlawyer partners and owners when one of the firms (or lawyers) is in a jurisdiction that allows nonlawyer ownership. A letter dated December 28, 2011 titled "Summary of

Actions by the ABA Commission on Ethics 20/20" recommended adoption of the above reference changes to Model Rules 1.5 and 5.4, and also recommended the preparation of a White Paper "regarding forms of alternative law practice structures not recommended by the Commission for adoption in the U.S. at this time, but noting that new developments may prompt reconsideration of this issue in the future, especially in light of changes in client needs and experiences with such practices elsewhere."

On April 16, 2012, the Commission publically announced its intention not to pursue any changes regarding nonlawyer ownership of law firms stating that "there does not appear to be sufficient basis for recommending a change to ABA policy on nonlawyer ownership of firms." However, at the same time, the Commission stated that it would "continue to consider how to provide practical guidance about choice of law problems" referencing the District of Columbia and some foreign jurisdictions which "permit nonlawyer ownership of law firms." Moreover, in this announcement, the Commission did not withdraw its call for a White Paper regarding certain alternative law practice structures.

Substantial media attention has been placed on the Commission's activities. Among other things, this attention may have created the perception that the ABA is going to change its Model Rules to permit fee splitting and non-lawyer ownership of law firms.

B. Choice of Law

As described in the December 28, 2011 "Summary of Actions by the ABA Commission on Ethics 20/20," the proposed amendments to Model Rule 1.5 would unambiguously allow a lawyer in a jurisdiction that prohibits nonlawyer law firm ownership to divide a fee with a lawyer in a firm that has permissible nonlawyer ownership. Similar to the proposed change to Model Rule 1.5, the proposed amendment to Model Rule 5.4(a) would establish the propriety of *intra*-firm fee sharing where a firm has offices in multiple jurisdictions, and where some of those jurisdictions allow nonlawyer ownership but others do not. Each of these amendments violate the current ABA policy. If adopted by the House, this would amount to an approval of nonlawyer fee splitting and ownership.

C. Importance of Policy Affirmation and Re-Adoption

Given the Commission's ongoing consideration of these matters, it is important that the House of Delegates provide its unambiguous direction. By affirming and re-adopting the portions of the ABA's 2000 policy discussed above, the Commission will have clear guidance on how, if at all, to proceed

with its evaluation of the issues. Such guidance would ensure that any proposal in this area reflects and is consistent with established ABA policy.

At the time this report is being written, at least two bar entities support the affirmation and re-adoption of the referenced portions of the 2000 policy: (1) the Illinois State Bar Association; and (2) the Senior Lawyers Division of the ABA. Other bar entities continue to review this issue.

IV. Conclusion

The Illinois State Bar Association respectfully urges the House of Delegates to affirm and re-adopt the referenced portions of its 2000 policy on the core principles and values of the legal profession.

Respectfully submitted,

John G. Locallo
President, Illinois State Bar Association
August, 2012

GENERAL INFORMATION FORM

To Be Appended to Resolutions with Reports

(Please refer to *Instructions for Filing Resolutions with Reports* for completing this form.)

Submitting Entity: Illinois State Bar Association

Submitted By: John G. Locallo, President

1. Summary of Resolution(s).

The Resolution urges the American Bar Association House of Delegates to affirm and re-adopt portions of existing ABA policy adopted in July, 2000 (Report No. 10F) that urged jurisdictions to implement and preserve certain core values of the profession developed to protect the public interest. Specifically, that policy recognized that: (1) sharing legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession; and (2) prohibitions against lawyers sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

2. Approval by Submitting Entity.

The Resolution was approved by the Illinois State Bar Association ("ISBA") Board of Governors at its March 9, 2012 meeting and is an affirmation of the ISBA policy adopted by its Assembly in June, 2000.

3. Has this or a similar resolution been submitted to the House or Board previously?

No. The ABA policy which this resolution seeks to affirm and re-adopt was approved by the House in July, 2000 (Report 10F). Since original passage, no resolution to affirm and re-adopt that policy has been submitted.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The relevant Association policy is that policy which was adopted by the House of Delegates in July, 2000 and which is sought to be affirmed and re-adopted by this resolution. The policy would be affirmed and re-adopted.

5. What urgency exists which requires action at this meeting of the House?

The Commission on Ethics 20/20 has circulated various drafts of proposed changes to Model Rules 1.5 and 5.4, including as concerns (1) choice of law issues relating to nonlawyer ownership interests in law firms (including fee sharing); and (2) alternative law practice structures. The referenced draft changes – which, if adopted, would be in contravention of ABA policy -- have been widely circulated to the public and the profession through the media. Among other things, this circulation may have created the perception that the ABA is going to change its Model Rules to permit non-lawyers to invest in and own law firms.

On April 16, 2012, the Commission publically stated that it intended not to pursue any changes regarding nonlawyer ownership of law firms. However, at the same time, the Commission stated that it is continuing to study “choice of law” issues in advance of possible action at the February, 2013 House of Delegates meeting. Moreover, the Commission is apparently continuing to recommend the preparation of a White Paper “regarding forms of alternative law practice structures not recommended by the Commission for adoption in the U.S. at this time,” noting that “new developments may prompt reconsideration of this issue in the future, especially in light of changes in client needs and experiences with such practices elsewhere.”

Given the ongoing review by the Commission of these matters, and the attention paid to this review by the profession and public, it would be helpful for the House to make clear that its current policy is affirmed and readopted.

6. Status of Legislation. (If applicable)

Not applicable.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The policy is self-implementing on the adoption of the resolution as it would affirm and readopt the existing policy.

8. Cost to the Association. (Both direct and indirect costs)

Not applicable.

9. Disclosure of Interest. (If applicable)

Not applicable.

10. Referrals.

The Report with Resolution will be circulated to state bar association delegations and elsewhere within the ABA as appropriate.

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

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EXECUTIVE SUMMARY

A. Summary of Recommendation.

The recommendation urges the American Bar Association ("ABA") to affirm and re-adopt existing ABA policy adopted in July, 2000 (Report No. 10F) that urged jurisdictions to implement and preserve certain core values of the profession developed to protect the public interest, including that: (1) sharing legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession; and (2) prohibitions against lawyers sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

B. Issue Recommendation Addresses.

Should the ABA affirm and re-adopt its policy adopted in 2000 that the sharing of legal fees with non-lawyers and ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession.

C. How Proposed Policy Will Address the Issue.

The recommendation will address the issue by affirming and re-adopting existing ABA policy providing that sharing legal fees with nonlawyers and/or allowing nonlawyer ownership and control of law firms is inconsistent with core principles of the legal profession.

D. Minority Views or Opposition.

The Commission on Ethics 20/20 has recommended or may recommend proposals which are a violation and in contravention of current ABA policy. No specific opposition to the proposed resolution is known at this time.

Policies

I. Goal: The goal of the Lawyer Referral Service (LRS) is to serve lawyers and the public by referring people who seek and can afford to pay for legal assistance (potential clients) to lawyers who are willing to accept such referrals, and also to provide information and other resources as appropriate. All lawyers participating in the LRS (panelists) agree to abide by these Lawyer Referral Service Policies (Policies) and Lawyer Referral Service Operating Procedures (Procedures).

II. Eligibility: Lawyers satisfying the following requirements shall be eligible to apply for participation in the LRS. The lawyer must:

- A. Maintain a private practice;
- B. Be an active member of the Oregon State Bar in good standing;
- C. Maintain malpractice coverage with the Professional Liability Fund (PLF); and
- D. Have no formal disciplinary, protective or custodianship proceedings pending.

Additional standards apply for special subject matter panels; the special subject matter panels and qualifications are stated in the Procedures.

III. Complaints:

A. Ethics Complaints: Complaints about possible ethical violations by panelists shall be referred to the Oregon State Bar Client Assistance Office.

B. Customer Service Complaints: LRS staff monitor complaints concerning the level of customer service provided by panelists. The character, number, and/or frequency of such complaints may result in removal from the LRS, with or without prior notice.

IV. Removal:

A. Panelists against whom disciplinary, protective or custodianship proceedings have been approved for filing shall be automatically removed from the LRS until those charges have been resolved. A matter shall not be deemed to be resolved until all matters relating to the disciplinary proceedings, including appeals, have been concluded and the matter is no longer pending in any form.

B. A panelist whose status changes from "active member of the Oregon State Bar who is in good standing" shall be automatically removed from the LRS.

C. A panelist who leaves private practice, fails to maintain coverage with the PLF, or files an exemption with the PLF shall be automatically removed from the LRS.

D. A panelist may be removed from the LRS or any LRS panel if the panelist violates these Policies and/or the Procedures.

E. In all instances in which the panelist is removed, automatically or otherwise, prior notice need not be given to the panelist.

V. Funding & Refunds:

A. Funding: All panelists shall pay the annual LRS registration fees and percentage remittances on all attorneys' fees earned and collected from each potential client referred by the LRS and accepted as a client.

1. Registration Fees: The Board of Governors (BOG) shall set the registration fees. All panelists shall pay registration fees annually for each program year and, except as provided in Paragraph (B) "Refunds" (below), registration fees are nonrefundable and will not be prorated.

2. Remittances: As provided below and explained further in the Procedures, if a panelist and client enter into an agreement whereby the panelist will provide legal services to the client for which the client will pay a fee, then remittances will be due the LRS upon payment of the fees by the client. The combined fees and expenses charged a client may not exceed the total charges that the client would have incurred had no referral service been involved. The BOG sets the percentage rate(s) to be applied to all panelists' attorneys' fees earned and collected from clients in excess of any applicable threshold. Remittances owed to the LRS are calculated by multiplying the percentage rate(s) by the earned and collected attorney fees. If a panelist fails to pay the appropriate remittance(s) to the LRS in accordance with these Policies and the Procedures, the panelist will be ineligible for referrals until all remittance(s) have been paid in full. A panelist's obligation to pay remittances owed to the LRS continue regardless of whether the panelist is in breach of this agreement, fails to comply with these Policies or the Procedures, is removed from the LRS, is no longer eligible to participate in the LRS, or leaves the LRS.

3. Communications Regarding Remittances: Upon settlement of a matter, the panelist shall be obligated to include the LRS with those who have a right to know about the terms of a settlement to the extent necessary to allow the LRS to ~~have knowledge of the terms of the settlement (including all fees paid in the case, whether paid directly by another party, or by settlement proceeds) so that the LRS may~~ determine the portion of the fees to which it is entitled.

B. Refunds:

1. Upon written request, a panelist who has been automatically removed from the LRS shall be entitled to a prorated refund of registration fees. The amount of the refund shall be based on the number of full months remaining in the program year for which the fees were paid, as measured from the date the written request is received. An automatically removed panelist who again meets all of the eligibility and registration requirements prior to the expiration of the program year during which the automatic removal occurred may reapply and be reactivated for the remainder of that program year upon written request and payment of any amount refunded.

2. Upon written request, a panelist who is required to refund to a client a portion of a flat fee that was earned upon receipt shall be entitled to a refund of the same portion paid to LRS.

VI. Review and Governance:

A. Public Service Advisory Committee (PSAC):

1. The PSAC advises the Board of Governors on the operation of the LRS. The PSAC works with LRS staff in the development and revision of these Policies and the Procedures. Amendments to these Policies must be approved by the BOG. Amendments to the Procedures may be approved by a simple majority of the PSAC, with the exception that proposed revisions to the amount of the registration fees and the percentage rate(s) and threshold used to calculate remittances shall be submitted to the BOG for approval.

2. Upon written request, the PSAC shall review an LRS staff decision to remove a panelist at its next regularly scheduled meeting. Such written request shall be submitted to the PSAC within 30 calendar days of the date notice of the LRS staff decision is given to the removed panelist.

3. Upon written request, the PSAC may review an LRS staff decision regarding a panelist's registration, renewal, and/or special subject matter panel registration (collectively, registration issues). Such written request shall be submitted to the PSAC within 30 calendar days of the date notice of the LRS staff decision is given to the lawyer. The PSAC's review and decision regarding registration issues shall be final.

B. Board of Governors (BOG):

1. Upon written request by any PSAC member or LRS staff, PSAC decisions regarding proposed revisions to the Procedures may be reviewed by the BOG. Upon

written request of a panelist, a decision of the PSAC regarding panelist eligibility or removal may be reviewed by the BOG, which shall determine whether the PSAC's decision was reasonable. The written request shall be submitted to the BOG within 30 calendar days of the date notice of the PSAC decision is given to the affected panelist.

2. The BOG shall set the amount of the registration fees and the percentage rate(s) and threshold used to calculate remittances.

3. These Policies may be amended, in whole or in part, by the BOG.

Operating Procedures

1) How It Works:

a) Screening: Lawyer Referral Service (LRS) staff process referrals using information gathered from the potential client during the screening process — legal need, geographic area, language spoken, and other requested services (credit cards accepted, evening appointments, etc.) – to find a lawyer participating in the LRS (a panelist) who is the best match for each potential client.

b) Rotation: Referrals are made in rotation to ensure an equitable distribution of referrals among similarly situated panelists.

c) Processing: Generally, potential clients receive one referral at a time and will not be provided more than three referrals within a 12-month period for the same legal issue. Under certain circumstances, LRS staff may provide more than three referrals and may also provide several referrals at the same time. Such circumstances may include but are not limited to emergency hearings, referral requests from those who live out of state, lawyers interviewing panelists to represent their clients in other matters, etc. Potential clients are told by LRS:

i) To tell the panelist that they have been referred by the Oregon State Bar's Lawyer Referral Service;

ii) That they are entitled to an initial consultation of up to 30 minutes for \$35;

iii) That the panelist's regular hourly rate will apply after the first 30 minutes; and,

iv) That all fees beyond the initial consultation will be as agreed between the client and the panelist.

d) Follow-up: After processing a referral, LRS staff email a referral confirmation to the panelist and, if possible, to the potential client as well. A comprehensive status report is sent to panelists on a monthly basis. LRS staff will also send follow-up surveys to potential clients and clients referred by the LRS.

e) Initial Consultations:

i) Amount: Panelists agree to charge potential clients who live in Oregon and are referred by the LRS no more than \$35 for an initial consultation; except that no consultation fee shall be charged where:

(1) Such charge would conflict with a statute or rule regarding attorneys' fees in a particular type of case (e.g., workers' compensation cases), or

(2) The panelist customarily offers or advertises a free consultation to the public for a particular type of case.

ii) Duration: Potential clients are entitled to 30 minutes for a maximum of \$35. If the potential client and panelist agree to continue consulting beyond the first 30 minutes, the panelist must make clear what additional fees will apply.

iii) Telephone, Computer and/or Video Consultations: It is up to the panelist whether the panelist will provide initial consultations by any communication method other than a face-to-face meeting with the potential client. Panelists may indicate their preferences on their LRS applications.

iv) Location of Face-to-Face Consultations: All lawyer-client meetings must take place in an office, conference room, courthouse, law library, or other mutually agreeable location that will ensure safety, privacy, and professionalism.

2) Customer Service: Panelists agree to participate only on those panels and subpanels reasonably within the panelist's competence and where the LRS has qualified the panelist to participate on one or more special subject matter panels, as applicable. In addition, panelists must demonstrate professional reliability and integrity by complying with all LRS Policies and Procedures, including the following customer service standards:

a) Panelists will refrain from charging or billing for any fee beyond the initial consultation fee unless and until the panelist and potential client have agreed to the attorney's fees and costs for additional time or services beyond the initial 30-minute consultation;

b) Panelists will use written fee agreements for any services performed on behalf of clients that are not completed at the initial consultation;

c) Panelists will communicate regularly with LRS staff, including updating online profiles and providing notice if a panelist is unable to accept referrals for a period of time due to vacation, leave of absence, heavy caseload or any other reason;

d) Panelists will keep clients reasonably informed about the status of the clients' legal matters and respond promptly to reasonable requests for information. Panelists will return calls and emails promptly and will provide clients with copies of important papers and letters. Panelists will refer back to the LRS any potential client with whom the panelist is not able to conduct an initial consultation in the timeframe requested by the potential client or for any other reason; however, in order to provide a high level of customer service, the panelist may offer the potential client a referral to another lawyer, provided:

i) The subsequent lawyer is a panelist;

ii) The potential client is informed of the potential client's option to call the LRS back for another referral rather than accepting the offered substitution;

iii) The potential client agrees to the substitution; and

iv) Both the referring panelist and subsequent lawyer keep the LRS apprised of the arrangement and disposition of all referrals, and ensure that all reports to the LRS clarify and document all resulting lawyer-client agreements and relationships, if any.

e) Panelists will submit any fee disputes with LRS-referred clients to the Oregon State Bar Fee Arbitration Program, regardless of who submits the petition for arbitration and regardless of when the dispute arises.

3) How To Join the LRS:

a) Before submitting your application and payment, please read through the Lawyer Referral Service Policies (Policies) and these Procedures completely and contact LRS staff with any questions you may have;

b) Complete and submit the LRS Application Form; log in at www.osbar.org and click on the link for the application;

c) Complete and submit the Subject Matter Qualification forms for certain designated panels (if required);

d) Ensure that your Professional Liability Fund (PLF) coverage is current and that all outstanding PLF invoices are paid; and,

e) Pay all registration fees.

4) Program Year: The LRS operates on a 12-month program year. The program year begins July 1 and ends June 30. Although the LRS will accept applications at any time, registration fees are not prorated for late registrants. Payment of the registration fee shall entitle the panelist to participation only for the remainder of the applicable program year. The LRS may refund registration fees only if requested prior to the beginning of the applicable program year.

5) Territories: LRS registration uses geographic territories based upon population density, counties, court locations and potential client and panelist convenience. A chart of the territories and the counties in each territory may be found on the application. Payment of the base registration fee (see below) includes registration for one territory, which shall be the territory in which a panelist's office is located, known as the panelist's home territory. For an additional fee, panelists may elect to register for additional territories outside of his or her home territory for some or all of the general areas of law panels selected.

6) Subject Matter Panel Qualifications: Registration for special subject matter panels requires a separate form and affirmation showing that the panelist meets basic competency standards. The subject matter panels currently include: felony defense; interstate/independent adoption; deportation; and Department of Labor-referred FMLA/FLSA matters. Additional information and forms are available on the bar's website at www.osbar.org.

7) Registration Fees (effective 07/01/12):

a) Basic Registration Fee (including home territory and up to four areas of law):

i) \$50 for those admitted in Oregon for less than 3 years.

ii) \$100 for those admitted in Oregon for 3 years or more.

b) Enhanced Services Fees:

i) Additional Territories: \$50 for each additional geographic territory

ii) Statewide Listing: \$300

iii) Additional Panels: \$30 for each additional area of law beyond the four included in a basic registration)

8) Remittances:

a) Percentage Rate: 12%

b) Threshold: \$0

c) The Math: Panelists will pay the LRS a remittance on each and every LRS-referred matter in which the earned and collected attorneys' fees meet or exceed the threshold or "deductible." The remittance is a percentage only of the panelist's professional fees and does not apply to any costs advanced and recovered, or the \$35 initial consultation fee.

d) Remittance Payments to the LRS:

i) Panelists will report and ~~pay submit~~ remittances to the LRS no later than the last day of the month following the month in which the attorney fees were paid. in the next status report period after the fees have been paid (either in response to a bill or if the panelist has billed against funds held in trust). If a panelist fails to report or pay the appropriate remittances to the LRS as required, within the next reporting period, LRS staff shall notify the panelist requesting immediate payment of the appropriate remittances to the LRS. LRS staff may remove the panelist from rotation and cease referrals to the panelist until all remittances are paid in full.

~~ii) Final Case Status Reports and Payment: Panelists must submit a final report at the conclusion of the matter reflecting the dates and amounts of all fees paid by or on behalf of the client, accompanied by a copy of the final client billing or settlement statement. The final payment of all remittances due on the matter must be received by the LRS within 30 days of the panelist's receipt of the client's final payment.~~

~~ii) iii) If the panelist fails to pay the appropriate remittance to the LRS within 30-90 days from the date of payment of attorney fees to the panelist, the bar may take any reasonable and financially prudent methods to collect on amounts owed to LRS. LRS staff shall remove the panelist from all referral panels and cease all referrals to the panelist until all remittances owed are paid. If the panelist fails to respond within 10 business days of a delinquency notice sent by LRS staff, the matter will be presented to the Public Service Advisory Committee (PSAC). The PSAC may authorize LRS staff to undertake collection efforts or may refer the matter to OSB general counsel's office.~~

~~iii) iv) A panelist who has been delinquent more than 30 days past due in payment three times is subject to permanent expulsion from the LRS. The PSAC's decision on the expulsion is final.~~

e) Special Circumstances:

i) If an LRS-referred client puts other potential clients in touch with the panelist for the same matter (a multiple-victim auto accident or multiple wage claims against the same employer, for instance), the remittance due to the LRS applies to all fees earned on the matter.

ii) If an LRS-referred matter closes and some time later the client contacts the panelist on an unrelated matter, no remittance is due to the LRS on the new, unrelated matter.

iii) If a panelist elects to share or co-counsel a client matter with another lawyer for any reason, the panelist is solely responsible to the LRS for remittances on all fees generated during the course of representation of the client in that matter (including any fees paid to the other lawyer brought in on the matter).

9) Renewals: To remain an active panelist in the LRS and continue to receive referrals, panelists must:

a) Be current with all remittances owed to the LRS and pay all registration fees owed for the upcoming program year by the deadline stated in the renewal notice; and

b) Continue to be eligible to participate in the LRS and otherwise be in compliance with the Policies and these Procedures.

10) Reporting: LRS will provide panelists a monthly report listing all the panelist's pending or open referral matters. Panelists will complete the report indicating the status of each matter; failure to complete all such reports within 30 days will be grounds for removal from rotation. Reports are considered delinquent until completed and all remittances are paid.

~~11) If, in its sole discretion, the LRS deems it necessary, the LRS may audit the client file and the panelist's records to determine if the correct remittances have been paid.~~

~~11~~2) Follow-up: LRS sends follow-up surveys to clients and potential clients asking if they consulted with the panelist, amounts of fees paid, and if they were satisfied with the LRS process. Any pertinent information will be forwarded to panelists, and, if deemed necessary by LRS staff, to the PSAC. The LRS also routinely monitors referrals by checking court dockets, legal notices, etc.

~~12~~3) Remittance Disputes/Audits: LRS may request panelists to verify that correct remittances have been paid. Upon request, panelists will provide verification to LRS to the extent reasonably necessary to resolve the remittance dispute and to the extent the rules of professional conduct allow. Remittance disputes between the LRS and panelists

~~that cannot be resolved are subject to collection action. Remittance disputes between the LRS and panelists that cannot be resolved through intervention by the Executive Director or the PSAC are subject to collection actions. Participation in the LRS constitutes the panelist's and the client's authorization for the LRS staff or a duly authorized agent to examine and audit the panelist's financial records and the legal files with regard to clients. The audit may include but is not limited to charts of accounts, general account records, court filing records, calendars, appointment records, time sheets, docket sheets, engagement letters, fee agreements and contracts with clients — in any and all forms and formats, media, files, devices, computers and accounts, whether electronic or otherwise.~~

134) Participation in other Referral & Information Services Programs: In addition to administering the LRS, the OSB Referral & Information Services Department also administers the following other programs that provide referrals in the same or similar areas of law: Military Assistance Panel, Problem Solvers Program and Modest Means Program. More information can be found at www.osbar.org/forms.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: June 22, 2012
From: Sylvia E. Stevens, Executive Director
Re: Client Security Fund Claims Recommended for Payment

Action Recommended

Consider the May 5, 2012 recommendation of the CSF Committee that the following claims be paid:

No. 2010-16 FIELDS (Bazurto)	\$17,517.00
No. 2010-25 GINSLER (Kiker)	2,434.03
No. 2011-23 MORASCH (Baker)	3,900.00
No. 2012-30 HAMMOND (Elliott)	650.00
No. 2012-06 GRUETTER (Gravance)	50,000.00
No. 2012-11 GRUETTER (Hines)	50,000.00
No. 2012-12 GRUETTER (Vice)	50,000.00
No. 2012-13 GRUETTER (Standley)	13,855.63
No. 2012-16 GRUETTER (Ihrig)	500.00
No. 2012-21 GRUETTER (Meekins)	6,636.59
No. 2012-32 GRUETTER (Lowery)	2,823.17

TOTAL **\$198,316.42**

The committee has given considerable thought to how to pay the outstanding claims, given that the total of pending claims exceeds the Fund balance. At present there are 51 claims pending (including those in this report). If paid at the maximum allowed, the total of the outstanding claims is \$1,031,743. The Fund balance as of April 31, 2012 was \$805,000, leaving a shortfall of \$208,743. (Note: the cost of operating the fund is also charged against the fund balance, so the shortfall will actually be greater.¹) Claims from clients of Bryan Gruetter make up more than \$750,000 of the total outstanding.²

The committee identified three possible options for dealing with the fund shortfall: (1) hold all approved claims until the November meeting and pro rate payments from available funds, with the balance to be paid in 2013 after the next assessment is collected;³ (2) pay all

¹ For 2012, the budgeted expenses other than payment of claims but including the ICA is \$58,800. Most of that is salaries that are ½ paid by the middle of the year; assuming about \$30,000 remaining expense, the year-end shortfall will be approximately \$238,743.

² In its 45 year history, the largest CSF payout on claims against a single lawyer was \$179,000 on account of Fred Young in 1989-1990. Six other lawyers have been responsible for claims in excess of \$100,000: Roger Anunsen, \$137,000; Merlin Estep, \$108,000; William Judy, \$176,000; Lewis King, \$101,000; Carl Loennig, \$151,000; and Gary Rae, \$131,000.

³ The Committee will have a formal recommendation for the BOG in August, but will likely ask that the annual CSF assessment (\$15) be at least doubled.

claims as they are completed until the available fund balance is depleted, deferring payment of the others until early 2013 after the next assessment is collected; (3) pay all claims as they are completed with a “loan” from OSB general reserves, to be repaid as CSF funds are available in 2013.

By a unanimous vote, the committee recommends the third option as best exhibiting the OSB’s commitment to assisting the claimants, particularly the victims of Bryan Gruetter. The committee urges the BOG to authorize a “loan” from general reserves if needed to pay claims as they are presented between now and November. Any such amounts will be reimbursed to the general reserves from the 2013 assessment.

Background

No. 2010-16 FIELDS (Bazurto) - \$17,517

This claim is a comedy/tragedy of errors and miscommunications. Cecilia Bazurto suffered serious permanent injuries from an auto accident in December 2003. She was treated at OHSU, which thereafter duly perfected a hospital lien for approximately \$18,600. Bazurto retained Salem attorney Stanley Fields to pursue a personal injury claim on her behalf. (Note: Bazurto does not speak or read English and relies on others to communicate and translate for her.)

In April 2004, Bazurto’s injury claim was settled for policy limits of \$25,000. After paying himself his 1/3 fee, Fields retained the balance of the settlement funds, explaining to Bazurto that he would try to negotiate a compromise of the OHSU lien so she would receive some of the settlement funds. (After deduction of Fields’ fee, the balance of funds was insufficient to satisfy OHSU’s lien.) Thereafter, Bazurto heard nothing from Fields and he made no offer to OHSU.

In June 2005, Fields submitted a Form B resignation arising out of his mishandling of several client’s trust funds, failure to file tax returns, and failure to respond to the bar’s inquiries. His representation of Bazurto was not part of the disciplinary matter. Bazurto claims she was never informed that Fields could no longer practice law and never received any information about how to contact him or get her money.

In October 2005, Bazurto filed claims with the CSF and the PLF. Both the CSF and the PLF investigated the matter and determined that the funds remained in Fields’ trust account. In September 2006, the CSF denied Bazurto’s claim, finding no evidence of dishonesty. The PLF also denied her claim, finding no negligence on Fields’ part. The PLF referred Bazurto to a Salem attorney who was willing to help her resolve the OHSU lien and she was advised by the CSF to follow up with that attorney because the funds in Fields’ trust account could be released only upon resolution of the OHSU lien.

Bazurto did nothing more (in retrospect it is apparent she didn’t know what to do) until February 2007, when she again contact the PLF. The PLF contacted Fields and arranged for him to issue a check payable jointly to Bazurto and OHSU. In June 2007 Bazurto received the check, in the amount of \$17,517, but again seemed not to know how to proceed and took no action

for several months. OHSU also appears to have done nothing. In the summer of 2008 Bazaruto sent the check to OHSU, which was unable to negotiate the check because of its age. OHSU tried unsuccessfully to contact Fields for a replacement check. Bazaruto again contacted the PLF. In November 2009, Fields responded that he had withdrawn Bazaruto's funds from trust and could not replace them. The PLF passed that information on to Bazaruto.

In June 2010, Bazaruto filed another claim with the CSF (the spelling of her name differed from the original claim, so the CSF didn't realize for some time that it was the same matter). The CSF Committee member originally assigned to investigate did nothing for nearly 18 months. (She was eventually removed from the Committee for failure to attend meetings.) The claim was reassigned in December 2011.

The CSF subpoenaed Fields' trust account records from his bank and confirmed that between March and August 2009, Fields withdrew all but \$24 from his trust account. The investigator also confirmed that OHSU's lien has expired and that OHSU has for several years considered Bazaruto's account uncollectible.

Bazaruto has new counsel (John Zbinden) who says OHSU is now willing to accept \$10,000 to settle Bazaruto's account. Zbinden questions the viability of OHSU claim, given its age.

The CSF recommends that Bazaruto be awarded \$17,517 based on the amount Fields tried to refund in June 2007.⁴ (Note, however, that Fields' trust records showed a balance in June 2007 of \$17,584.75; the discrepancy has not been explained.) The committee also recommended that the requirement for a judgment be waived on the grounds that Fields' whereabouts are unknown, his ability to satisfy a judgment is doubtful, and it would be a substantial hardship for Bazaruto to pursue a judgment.

NOTE: Subsequent to the Committee's decision on this claim, a newly-appointed Committee member informed the Fund Administrator that Fields was employed by the Workers' Compensation Division. The Administrator spoke to Fields, informing him of the likelihood that the CSF will reimburse Bazaruto and that the Bar will seek to recover that payment from him. Fields was cooperative, acknowledging his obligation and apparently willing to work out some kind of payment plan. We will negotiate the details of a repayment plan with him once the claim is paid; any payment plan will be conditioned upon Fields stipulating to a judgment in favor of the Bar.

⁴ Although this claim is old, it falls within the applicable limitations period. CSF Rule 2.8 requires that claims be presented within 2 years of the lawyer's resignation or the date the claimant should have known of the loss, but in no event more than 6 years from the date of the loss. Bazaruto's first claim was filed in 2005, while Fields still had her funds. Her second claim was filed in 2010, approximately 6 months after she learned that Fields has misappropriated her funds.

No. 2010-25 GINSLER (Kiker) – \$2,434.03

Jeffrey Kiker hired William Ginsler to secure the discharge of a particular debt in bankruptcy. Ginsler filed a Chapter 13 and handled the case for a couple of years, although he missed hearings and showed up for others unprepared. Early in the representation, Ginsler recovered \$2434.03 that had been wrongfully garnished by one of Kiker's creditors.

In April 2010, Ginsler obtained permission to withdraw as Kiker's attorney in the Chapter 13, citing "health reasons." At the time he was in the midst of a disciplinary case involving more than 11 client matters; he resigned Form B in October 2010.

At some point, Kiker learned that the Chapter 13 would not discharge the debt he was concerned about. Kiker went to the PLF, which arranged for new counsel to take over the bankruptcy and convert it to a Chapter 7. The bankruptcy was ultimately concluded successfully without further cost to Kiker.

In his application for reimbursement, Kiker sought more than \$8800, comprised of \$2800 in fees paid to Ginsler, \$3600 paid to the Chapter 13 trustee and the \$2434.03 garnishment recovery that Ginsler had never delivered to him. The bankruptcy court records show that all Chapter 13 payments were accounted for and were used to pay creditors and administrative expenses, including Ginsler's fees.

The committee recommends an award to Kiker of \$2434.03 representing the recovered garnishment proceeds that Ginsler apparently misappropriated. (The committee concluded that Kiker suffered no loss in regard to the Ginsler's fees or the Chapter 13 payments.)The committee also recommends waiving the requirement for a civil judgment; Ginsler's Form B was for very similar conduct in numerous cases. Moreover, Ginsler's whereabouts are unknown and it would be difficult for Kiker to obtain a judgment.

No. 2011-23 MORASCH (Baker) - \$3900

Lori Baker hired Marsha Morasch in October 2009 to represent her in a marital dissolution involving custody and parenting time issues. She deposited a \$5000 retainer against Morasch's \$250/hour fees. Morasch filed a petition and a temporary custody hearing was set for January 18, 2010. On the day of the hearing, Morasch's assistant informed Baker and opposing counsel that Morasch would not appear because she had broken both of her feet. The matter was reset to March 2, 2010. Baker had a meeting scheduled with Morasch on February 18 to prepare for the hearing, but Morasch cancelled without explanation.

On the morning of March 2, 2010, opposing counsel emailed a proposed stipulated order on temporary custody to Morasch. Baker told Morasch she couldn't agree to the terms of the proposed order and that she wanted to go ahead with the hearing. An hour before the hearing Morasch's assistant called Baker to say he couldn't locate Morasch and that Baker would need to go to the hearing by herself. Baker did so and, feeling that she had no option, signed the proposed order prepared by opposing counsel. The next day Baker fired Morasch,

and requested that Morasch deliver her file and the unused portion of the retainer to Baker's new counsel. The file was delivered after several more requests, but Baker never received any portion of the retainer or an accounting from Morasch.

Morasch stipulated to a six-month suspension beginning February 2011 during the pendency of formal proceedings involving seven client matters, including Baker's. She has not sought reinstatement. (The CSF has made awards totaling \$11,600 to three of Morasch's other clients.)

CSF Rule 2.2 allows for a refund of fees only if the lawyer's services are of no or only *de minimis* value to the client. The committee found that to be essentially the case here, since Baker's new attorney had to renew discovery requests and re-negotiate the temporary custody order. Baker did get value from the petition Morasch filed, however. Accordingly, the committee recommends payment of \$3900, giving credit for the filing fee and about 3 hours of work by Morasch. No judgment is required because Morasch's disciplinary stipulation arose in part from her representation of Baker.

2012-30 HAMMOND (Elliott) - \$650

Mark Elliott hired Paula Hammond in December 2011 to prepare a QDRO to effectuate the division of his former wife's pension, as directed in their divorce judgment. He paid Hammond \$650, which he understood would cover the work unless an unanticipated complication arose.

In mid-January 2012, Hammond informed Elliott that she was closing her practice, citing health reasons. She did not mention that she had signed a Form B resignation on December 29, 2011 that would be effective February 16, 2012.

Hammond had arranged for Ann Mercer to complete the QDRO, which she did, charging Elliott the same fee that Hammond had quoted. Mercer said Hammond's file showed little or no work on Elliott's matter.

Elliott had several e-mail exchanges with Hammond inquiring about a refund of his unearned fees; in her last e-mail (dated February 7, 2012) she promised "I'll be sending it to you shortly, Mark. I haven't forgotten you."

Hammond's resignation was in connection with four client complaints as well as additional charges identified by the bar while investigating the client complaints. Three of the matters involved allegations of excessive fees or failure to account for and refund unearned fees. In response to the Assistant Disciplinary Counsel's inquiry whether Hammond would be returning any of the client's funds in conjunction with her resignation, Hammond's attorney responded, "I think it makes sense to refer these folks to the Client Security Fund."

The committee recommends an award to Elliott for the entire \$650 and a waiver of the requirement for a judgment. Hammond's resignation was for virtually identical conduct with

other clients; she is also without assets to satisfy a judgment and the amount in question doesn't justify the cost of even a small claims action.

Bryan Gruetter Claims

Common Facts

Bryan Gruetter had a successful plaintiff's personal injury practice in Bend for more than 8 years. Prior to opening his own office, he worked at the Dunn Carney and Hurley Re firms. He was well known and widely respected in the Bend legal community. Gruetter was Treasurer of the ONLD in 1994 and served on the OSB Legal Ethics Committee (he was chair in 1995). For several years he presented annual ethics CLEs in Bend with Deschutes County Judges.

In 2010 and 2011 Gruetter had two young lawyers working with him as independent contractors, Joe Walsh (Bend office) and Troy Woods (Portland office). He also had several support staff. Gruetter's wife, Michelle, handled the business affairs of the practice including all disbursements from the trust account.

Gruetter had an unblemished disciplinary history until he was admonished in August 2011 for failing to promptly disburse payment to a third party lienholder. He excused his delay as the result of failing to enter the payment date in his "tickle system," being caught up in a complex trial, and health issues that took him away from the office. He assured DCO that he was hiring a new assistant to help bring order to his practice.

Unbeknownst to Disciplinary Counsel's Office, colleagues in Bend had noticed for several months that Gruetter was behaving strangely. He was often seen playing video poker in bars, he missed appointments and increasingly failed to show for court hearings or sought last-minute continuances alleging on health problems or calendar conflicts.

In late November 2011, a complaint was filed alleging that Gruetter had failed over the course of a year to pay a client's hospital lien. The hospital had recently obtained a judgment and was garnishing the client's wages. The bar also heard from a local attorney (and former employee of Gruetter) that Gruetter had been absent from his office for weeks on end, and that he was not responding to client inquiries and that the complainant was only one of many clients who had similar issue with Gruetter.

Within a few days, additional complaints began to come in, all alleging inability to communicate with Gruetter or to receive payments from his office. By January 20, 2012, the bar had received 16 complaints. On January 24, 2012, on the Bar's petition, the Deschutes County Court entered a temporary protective order making OSB the custodian of Gruetter's practice. On February 3, 2012, a stipulated order appointing OSB as custodian was entered. On February 10, 2012, the Bar filed a petition for an order suspending Gruetter from practice during the pendency of formal disciplinary proceedings. Within a few weeks, Gruetter submitted a Form B resignation (citing 25 pending matters) which was accepted by the Supreme Court and became effective April 19, 2012.

Within days of the first disciplinary complaint, Gruetter's clients began to present applications for reimbursement from the Client Security Fund. As of June 12, 2012, there were 31 claims pending with the Fund alleging losses ranging from \$500 to \$142,000. The Gruetter claims constitute more than \$750,000 of the potential Fund payments discussed in the "Action Recommended" section above. Through the custodianship we were able to get copies of the client files for most of the claimants. We also subpoenaed Gruetter's Lawyer Trust Account records from January 2010 through January 2012.

The custodianship is closed; pursuant to the court's final order the custodian has delivered the \$2500 in Gruetter's trust account to the CSF. We understand the US Attorney will be prosecuting Gruetter for wire fraud and we have been cooperating with the USAO in exchanging documents (including Gruetter's client files which were seized by Bend police in March 2012 and eventually released to the USAO when it took over the prosecution).

Based on its review of the first six Gruetter claims, the CSF Committee recommends that the requirement for judgments be waived in all cases. In some of the smaller cases that were part of his Form B resignation, no judgment is required in any event. For the others, the committee believes that pursuing a judgment against Gruetter is pointless. He has no assets of which anyone is aware, and he is likely to be convicted and imprisoned before too long. Additionally, it would be an undue burden on his clients to have incur the additional expense of legal proceedings.

No. 2012-06 GRUETTER (Gravance) - \$50,000

David Gravance hired Gruetter in January 2011 to pursue a medical malpractice case. He agreed to a 40% contingent fee and to pay all litigation costs. Client deposited \$300 with Gruetter toward those costs.

The case settled in mediation for \$85,000 in December 2011. The full settlement amount was deposited into Gruetter's trust account. After deduction of Gruetter's fee (\$34,000) and unreimbursed costs (\$470), Gravance's share was \$50,530. Although Gruetter's file suggests a health insurer lien and unpaid medical expenses in excess of \$33,000, there is no record of any payments. The investigator determined that Gravance is contractually obligated to BlueCross/BlueShield for approximately \$27,000. Client will be denied future benefits unless the outstanding amount is paid.

The committee recommends that Gravance be awarded \$50,000, the maximum allowable from the Fund.

No. 2012-11 GRUETTER (Hines) - \$50,000

In 2008 Gruetter represented a minor child in a case against the State of Oregon for injuries suffered in foster care. The settled in June 2010 for \$100,000. After deduction of Gruetter's fee of \$33,333 and costs of \$1,533, the minor child's share was \$65,134.

According to the court order approving the settlement, the minor's share was to be placed in a conservatorship account. Gruetter deposited the settlement proceeds into his trust account on June 30, 2010. Eight months later, in February 2011, Gruetter secured the appointment of Donna Hines as conservator. When Hines didn't receive the child's share immediately, she hired Jim Peterson to help her. Peterson made demand on Gruetter in March, August and December 2011, to no avail. In January 2012, Hines filed suit against Gruetter in Deschutes County seeking damages of \$195,000 for breach of contract, breach of fiduciary duty, conversion, negligence, and financial abuse of a vulnerable person. The case is still pending, with Gruetter represented by the PLF. No quick resolution is expected.

Both Hines and the child's parents have made claims to the Fund. The committee recommends an award of \$50,000 to Donna Hines as conservator for the minor child. The fee agreement was signed by the child's parents and by the guardian ad litem (a local attorney). Hines was appointed conservator after the case was resolved and the GAL was relieved of responsibility. CSF Rule 2.1 requires that a loss of money is eligible for reimbursement if the claim "is made by the injured client or the client's conservator, personal representative, guardian ad litem, trustee, or attorney in fact."

No. 2013-12 GRUETTER (Vice) - \$50,000

In October 2008 Joe Vice retained Gruetter's firm to probate the estate of and pursue a wrongful death claim concerning his mother, Bertha Vice. Joe was appointed personal representative of Bertha's estate and the wrongful death claim was filed. The claim was settled for \$215,000. After deducting attorney's fees, medical expenses, burial expenses, and DHS and Medicare liens, Gruetter's firm calculated \$130,173.79 to be distributed among Bertha's heirs.

In November 2011, the heirs/beneficiaries agreed to the following apportionment of the net settlement proceeds of \$130,173.79, which was confirmed in an order in the probate:

Son and PR, Joe Vice	\$71,595.57
Daughter, Betty Neimester	26,034.76
Son, Jay Vice	26,034.76
Granddaughter, Vanessa Grome	3,254.34
Granddaughter, Tammy Kearns	3,254.34
Granddaughter, Melody Howell	2,169.57
Grandson, Richard Vice	2,169.57
Great-granddaughter, Mary Vice	2,169.57

Over the next few months, Gruetter's office paid all of the expenses with the exception of the \$644.46 DHS lien, but never distributed any funds to Joe or the other beneficiaries. As a result, the loss attributable to Gruetter is increased to \$130,818.25.

Joe Vice submitted the CSF application for reimbursement for himself and "for listed family members" (and attached a copy of the apportionment agreement of the above-named

family members. On May 4, 2012, the CSF received a “revised application” for reimbursement from attorney Brooks Cooper on behalf of Joe, Betty, Jay and Tammy asking that *each* of them (but not the other beneficiaries) be reimbursed in the amounts shown above (with Joe’s reimbursement limited to the \$50,000 CSF maximum award).⁵

The CSF Committee discussed at some length whether to consider this as one claim or eight claims (the committee had not seen the “revised” claim of May 4, but raised the issue on its own based on the apportionment agreement). In that discussion, the committee took note of the following:

- CSF Rule 2.1 provides that a loss is eligible for reimbursement if the claim is made by “the injured client or the client’s conservator, personal representative, guardian ad litem, trustee, or attorney in fact.”
- Pursuant to Rule 1.4: “‘Client’ means the individual, partnership, corporation, or other entity who, at the time of the act or acts complained of, had an established attorney-client relationship with the lawyer.”
- CSF Rule 2.5 requires that: “ The loss arose from, and was because of:
 - (1) 2.5.1 an established lawyer-client relationship; or
 - (2) 2.5.2 the failure to account for money or property entrusted to the lawyer in connection with the lawyer’s practice of law or while acting as a fiduciary in a matter related to the lawyer’s practice of law.

Several committee members argued that Rule 2.5.2 is inconsistent with 2.1 and 2.5.1 because it appears to allow reimbursement to non-clients whose money or property was entrusted to the lawyer acting as a fiduciary. They suggested that Gruetter was holding funds of Bertha’s estate for the benefit of the beneficiaries and should thus be eligible for reimbursement under 2.5.2.

However, a majority of the committee disagreed, concluding that only clients are eligible for reimbursement from the CSF. Here, Joe Vice was Gruetter’s client and as such he is the only claimant to the fund. Whether Joe is required to share the award according to the apportionment agreement is an issue for Joe and his lawyer to determine. Accordingly, the committee recommends an award of \$50,000 payable to Joe Vice as personal representative of the estate of Bertha Vice.

⁵ The four persons named in the “revised” application are apparently the statutory beneficiaries of the wrongful death claim. Mr. Vice is now claiming that Gruetter committed malpractice in allowing him to agree to share the wrongful death proceeds with non-statutory beneficiaries.

No. 2012-13 GRUETTER (Standley) - \$13,855.63

Gina Standley retained Gruetter in November 2010 for representation in a personal injury case; he assigned it to Troy Wood. The case was settled a year later for \$20,960 and a check in that amount was deposited into Gruetter's trust account on November 18, 2011.

On December 6, 2011, Wood sent Standley a final accounting letter showing a net recovery to her of \$13,885.63 after deduction of attorney fees of \$6,986.66 and costs of \$117.71. On December 19, 2011, Standley sent a letter demanding release of her share of the settlement. Wood was unable to assist because he had no access to funds in trust; all distributions had to go through Michelle or Bryan Gruetter. Neither Gruetter responded to Standley's letter or phone messages.

The committee recommends an award to Standley in the amount of \$13,885.63.

No. 2012-16 GRUETTER (Ihrig) - \$500

Sandra Ihrig engaged Gruetter in August 2011 in connection with a potential medical malpractice claim. Gruetter's office asked her to sign medical releases, send names of her medical providers, and pay \$500 for a "medical review" or evaluation of her claim. Ihrig did as instructed.

Ihrig communicated with Gruetter's office over the next couple of months, principally to provide them with some of her recent medical records as well as other information she had researched about the doctor who treated her and the drugs she was given. In November 2011, Gruetter's office sent Ihrig copies of records it had obtained, but she heard no more from them.

The file does not reflect that Gruetter ever reviewed Ihrig's records or any other aspect of her case. The committee concluded that Ihrig was entitled to an award of the entire \$500 she paid to Gruetter because the services she received were *de minimis* at best.

No. 2012-21 GREUTTER (Meekins) - \$6,636.59

Constance Meekins retained Gruetter in October 2009 to pursue a claim for injuries sustained in a fall. Gruetter assigned the matter to Joe Walsh. Suit was filed and her claim was settled in October 2011 for \$12,000. The funds were deposited into Gruetter's trust account on November 28, 2011.

On December 22, Walsh prepared a final accounting for Meekins. After deducting Gruetter's 1/3 fee and expenses of \$1363.41, there remained \$6,636.59 for distribution to Meekins. Despite several requests from Walsh, no funds were paid to Meekins.

The committee recommends an award to Meekins of \$6,636.59.

No. 1012-32 GRUETTER (Lowery) - \$2823.17

Kathleen Lowery hired Gruetter in August 2009 to pursue a claim for injuries resulting from laser skin treatments. The claim was submitted to arbitration before Mike McClinton; Lowery signed an arbitration agreement providing that she was responsible for ½ of the costs of mediation.

Through mediation, Lowery's claim was settled for \$50,000; the proceeds were received by Gruetter and deposited into his trust account. On August 23, 2011, Gruetter send Lowery a check for \$28,894.66 along with a "1st preliminary Accounting" showing that he was holding back \$1,323.17 for a medical lien and \$1,500 for "final costs." He promised a final accounting in October after all outstanding obligations had been resolved.

In late July, Gruetter's office had contacted the medical provider's claims administrator to ascertain if it would reduce the amount of its lien. In response, the administrator advised it no longer represented the provider and referred Gruetter's office to the new administrator. There is nothing in Gruetter's file to indicate that his staff made any effort to resolve the medical lien. (Lowery has tried to do so on her own, but apparently gets no response from the administrator or the provider.) Gruetter also never paid the arbitrator's fee of \$490 or any other "final costs."

The committee concluded that Lowery has suffered a loss of the \$2,823.17 withheld by Gruetter. They considered at some length whether the CSF should reduce Lowery's award by \$490 and pay the arbitrator directly to ensure he was compensated. However, after a thorough discussion including whether it was appropriate for the CSF to assume responsibility for payments to third parties, the committee recommended an award to Lowery of the entire sum, leaving the resolution of her obligation to Mr. McClintock to the two of them.

MEMORANDUM

TO: Board of Governors, Oregon State Bar

FROM: Mike Haglund, Ethan Knight

RE: Proposed Legal Job Opportunities Work Group

DATE: June 18, 2012

One of the major challenges facing our profession is the lack of job opportunities for recent law school graduates during the last three years of the Great Recession. This memorandum summarizes the reasons that we jointly recommend the formation of a fast track BOG Task Force, tentatively named the Legal Job Opportunities Work Group.

During the last three years, approximately two-thirds of the graduates of U.S. law schools have been unable to find full time work in the profession. Law firms have dramatically reduced or completely eliminated their hiring in response to a significant reduction in the demand for legal work. Many firms have actually cut both lawyers and staff positions. As a result, the historic engine driving much of legal employment – law firms of various sizes – has been sputtering and many new admittees who are strongly committed to pursuing the profession have resorted to hanging out their own shingles as solo practitioners. These developments have significant consequences for the Oregon State Bar: greater needs for mentoring, CLE and professionalism opportunities; potential long-term loss of a significant share of those lawyers who passed the bar in 2009-12 to ongoing membership in the OSB; and the potential for a long-term negative view of the OSB by new admittees who see the organized bar as doing very little to address their significant needs.

Memo to Board of Governors,
Oregon State Bar
June 18, 2012
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Mitzi, Ethan and I had a brainstorming session on this topic last month. The basic idea is to organize a stakeholder summit involving bar leaders, law students, law school deans and recent admittees and public or private sector individuals with relevant economics experience to examine what steps the organized bar could take to address the existing lack of legal jobs for recent law school graduates.

Washington has a new program that involves a partnership with that state's three schools doing the intake for a state-wide modest means program designed to match underserved client groups with lawyers willing to charge discounted rates, many of them recent grads. The Washington State Bar is funding three half-time positions at the law schools at an annual cost of slightly more than \$100,000. Whether the OSB wants to go that route when we already have skilled intake personnel working for our Lawyer Referral Service is an open question. However, to do something similar, we would need to expand out modest means program and provide training and support for those serving on the modest means panels.

Another idea involves approaching the law schools about establishing an evening class for all comers (students and new practitioners), staffed by a rotating corps of three to five experienced lawyers at each law school. The class could cover designated practice management topics each semester in the first 90 minutes and then open things up for a wide-ranging Q&A for the next 90 minutes. This would add a substantial ongoing resource for new lawyers that supplements the mandatory mentoring program.

Anecdotally, we know that there are legal job opportunities in smaller communities throughout Oregon. There may be a way to develop a system for matching those opportunities with interested new lawyers which serves both new and soon-to-retire practitioners.

This Task Force could also provide an entree for opening a dialog with the deans of the Oregon law schools regarding class size and the unique needs of a growing percentage of their student bodies entering solo or small firm practice after graduation.

We propose the establishment of a BOG task force that would recruit members over the next 60 days, hold a summit in the fall and then generate a report to the BOG with specific action item proposals for decision in late 2012 and implementation in 2013. The Task Force would include key leaders from the ONLD and MBA YLS, who view the legal job opportunity issue as one of bar's the top priorities.

**Oregon State Bar
Board of Governors Meeting
June 22, 2012
Judicial Proceedings Minutes**

Reinstatements and disciplinary proceedings are judicial proceedings and are not public meetings (ORS 192.690). This portion of the BOG meeting is open only to board members, staff, and any other person the board may wish to include. This portion is closed to the media. The report of the final actions taken in judicial proceedings is a public record.

A. Reinstatements

1. Michael R. Blaskowsky – 841766

Motion: Ms. Billman presented information concerning the BR 8.1 reinstatement application of Mr. Blaskowsky. Ms. Billman moved, and Ms. Matsumonji seconded, to recommend to the Supreme Court that Mr. Blaskowsky's reinstatement application be approved. The motion passed.

2. Ann Highet – 902999

Motion: Mr. Spier presented information concerning the BR 8.1 reinstatement application of Ms. Highet. Mr. Spier moved, and Mr. Haglund seconded, to recommend to the Supreme Court that Ms. Highet's reinstatement application be approved subject to the provisions in the original stipulation for discipline. The motion passed.

3. Randall W. Rosa – 825006

Motion: Mr. Prestwich presented information concerning the BR 8.1 reinstatement application of Mr. Rosa. Mr. Prestwich moved, and Mr. Haglund seconded, to recommend to the Supreme Court that Mr. Rosa's reinstatement application be approved. The motion passed unanimously.

4. Michelle Lynn Shaffer – 981018

Motion: Mr. Wade presented information concerning the BR 8.1 reinstatement application of Ms. Shaffer. Mr. Wade moved, and Mr. Larson seconded, to temporarily reinstate Ms. Shaffer per BR 8.7(b). The motion passed unanimously.

5. Robert E. Sullivan – 983539

Motion: Mr. Sapiro presented information concerning the BR 8.1 reinstatement application of Mr. Sullivan. Mr. Kranovich moved, and Ms. Billman seconded, to

recommend to the Supreme Court that Mr. Sullivan's reinstatement application be approved. The motion passed unanimously.

B. Disciplinary Counsel's Report

As written.

**Oregon State Bar
Board of Governors Meeting
June 22, 2012
Executive Session Minutes**

Discussion of items on this agenda is in executive session pursuant to ORS 192.660(2)(f) and (h) to consider exempt records and to consult with counsel. This portion of the meeting is open only to board members, staff, other persons the board may wish to include, and to the media except as provided in ORS 192.660(5) and subject to instruction as to what can be disclosed. Final actions are taken in open session and reflected in the minutes, which are a public record. The minutes will not contain any information that is not required to be included or which would defeat the purpose of the executive session.

A. Unlawful Practice of Law

1. The BOG received status reports on the non-action items.

B. Pending or Threatened Non-Disciplinary Litigation

1. The BOG received status reports on the non-action items.

C. Other Matters

1. The BOG received status reports on the non-action items.