

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Montgomery, Alabama

Friday, October 27, 2006

1. CALL TO ORDER

President Boots Gale convened this meeting of the Alabama State Bar Board of Commissioners at 10:00 a.m. in the board room of the Alabama State Bar building in Montgomery. President-elect Crosby gave the invocation.

2. ROLL CALL

The Secretary called the roll of the Commission and the following Commissioners were present:

Michael E. Jones	Louis C. Rutland	J. Garrison Thompson
Oliver Kitchens	Cooper Shattuck	Alyce Spruell
William H. Broome	Nicholas B. Roth	Anthony A. Joseph
S. Greg Burge	Jack Neal	Phillip W. McCallum
Greg Hawley	Robert E. Moorer	Jim Pratt
William A. (Pete) Short	Albert J. Trousdale, II	Michael D. Knight
William M. Cunningham	Billy C. Bedsole	Mary Margaret Bailey
James H. Anderson	Donald R. Jones, Jr.	Thomas J. Methvin
Sim Penton	Lee H. Copeland	F. Michael Haney
K. Scott Stapp	John E. Medaris	Joseph A. Morris
Thomas B. Albritton	Harold Stephens	Richard J.R. Raleigh
Ronald H. Strawbridge	Kenneth E. White, III	Alan Chason
Tut Wynne	Robert L. Rumsey	Elizabeth Parsons
John M. Kennemer	Robert H. Brogden	Roger Bedford, Jr.
David H. Hyde, Jr.	Robert T. Meadows, III	Gerald R. Paulk
Walter E. McGowan	Claude E. Hundley, III	Alicia F. Bennett
Pamela H. Bucy	Kelly T. Lee	Celia J. Collins

The following Commissioners were absent:

Ronnie E. Keahey	W. N. (Rocky) Watson	Maibeth J. Porter
Joseph A. Fawal	Richard W. Whittaker	Robert L. Bowers, Jr.
Charles R. Stephens, Sr.	Les Hayes, III	William H. Atkinson
Everette A. Price, Jr.	L. Thomas Ryan, Jr.	Timothy D. Littrell
John C. Gullahorn	Roy W. Williams, Jr.	Wayman Sherrer
Jere C. Trent	David F. Law	Kyra Sparks
Deborah Byrd Walker	Merceria Ludgood	
Dawn Wiggins Hare		

Also in attendance was President-elect Sam Crosby. Staff members present included Tony McLain, Ed Patterson, Robby Lusk, Sam Partridge, Jeremy McIntire, Linda Lund, Laura Calloway, Anita Hamlett, Jeanne Marie Leslie and Brad Carr. Tracy Daniel, Executive Director of the Alabama Law Foundation and George Parker, President-elect of the Alabama Young Lawyers' Section were also in attendance.

3. APPROVAL OF THE MINUTES OF THE BOARD OF COMMISSIONERS MEETING FOR SEPTEMBER 8, 2006.

President Gale stated that the minutes of the Board of Commissioners meeting for September 8, 2006 had been disseminated to the Board. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE BOARD OF BAR COMMISSIONERS FOR SEPTEMBER 8, 2006. THE MOTION WAS SECONDED AND THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

4. RECOGNITION OF GUESTS

President Gale recognized the following guests: Jeannie Dowdle Rasco, President of the Talladega Bar Association; David Rains, President-elect, Tuscaloosa County Bar Association; Thomas Carmichael, President, Walker County Bar Association. President Gale welcomed each of the guests.

5. PUBLIC REPRIMANDS

5.1. Charles Salvagio, Birmingham, ASB 01-217(A)

Mr. Salvagio received a public reprimand with general publication for violation of Rules 3.3(a)(1), 8.4(a), 8.4(c), 8.4(d) and 8.4(g) of the *Alabama Rules of Professional Conduct [ARPC]*.

***5.2. Willie Julius Huntley, Jr. Mobile, ASB 01-04(A)**

Mr. Huntley received a public reprimand without general publication for violation of Rules 1.5(a), 1.5(b) and 1.5(d) of *ARPC*.

***5.3. Donnis Cowart, Tuscaloosa, ASB 05-153(A)**

Mr. Cowart received a public reprimand without general publication for violation of Rules 1.3, 8.4(a) and 8.4(g) of *ARPC*.

*Both of these reprimands were delivered later in the meeting because the attorneys were not present at the start of the meeting.

6. **PRESIDENT'S REPORT**

President Gale noted that he had attended the Admission Ceremony the week before last. He also spoke about the judicial elections and the work of the Judicial Campaign Oversight Committee. He mentioned his desire to work on merit selection following the general election. President Gale also informed the Commission that the response to the February board meeting plans had been overwhelming and that the Commissioners of the 10th Judicial Circuit would serve as a informal planning committee to work on the program. He concluded by noting that the committees and task forces are active and hard working.

7. **SECRETARY'S REPORT**

The Secretary reported that the Mobile Bar Association transmitted resolutions memorializing James Wilford Shreve and David R. Coley, III, for inclusion in the Book of Memorial Resolutions.

COMMISSIONER BEDSOLE MOVED THE ACCEPTANCE OF THE RESOLUTIONS OF THE MOBILE BAR ASSOCIATION MEMORIALIZING JAMES WILFORD SHREVE AND DAVID R. COLEY, III FOR PLACEMENT IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

The Secretary next discussed the recent rules received from the Alabama Supreme Court including changes to Rule III of the *Rules Governing Admission to the Alabama State Bar* to permit admission without examination; the authorized house counsel rule; modifications to the law student intern rule; the amendment of Rule 5.5 of the Alabama Rules of Professional Conduct and PHV amendments to Rule VII of the *Rules Governing Admission to the Alabama State Bar* to facilitate indigent defense services by foreign attorneys who volunteer to represent indigent defendants pro bono.

The Secretary then reviewed the financial report for the fourth quarter as well as the year-end financial report for FY 2005-2006. Following his review, the Secretary asked if there were any questions. There were none.

8. **COMMUNICATIONS UPDATE**

Brad Carr discussed the Constitutional Revision booklet prepared by the Lawyers Public Relations Committee and stated that small quantities of additional booklets were available to Commissioners upon request.

9. **PROGRAM UPDATE**

Ed Patterson updated the Commission on the Judicial Scholarship program, the Pilot Mentoring program as well as the Leadership Forum.

10. **OFFICE OF GENERAL COUNSEL REPORT**

Tony McLain discussed the oral arguments held in the case involving office overhead expense for indigent defendants.

11. ELECTION OF LAY MEMBER ALTERNATES TO THE DISCIPLINARY BOARD

President Gale explained that it was necessary to elect six lay members to complete the pool of lay members needed for the Disciplinary Board. He asked for comments from board members who nominated lay member candidates. Commissioners who nominated lay members for the Disciplinary Board discussed each candidate nominated. Mr. McLain answered several questions about the operation of the lay member pool. He said that the individuals being selected to complete the pool would serve as alternates for lay members presently serving on panels.

The following individuals were nominated: Cynthia W. Burton, Dr. Tom Butts, Dr. Travis Coleman, Dr. Matthew Duke, Mr. Jerry Groce, Mr. Heager Hill, Mr. Hubert Kessler, Mr. Russell H. Maddox, Mr. Ralph A. Mason, Mr. Martin Nowak, Mr. Johnny P. Webster.

COMMISSIONER SPRUELL MOVED THAT NOMINATIONS BE CLOSED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

President Gale then advised the Commission that the name of each nominee would be read aloud and Commissioners, by show of hands, would vote for six nominees of their choice. He stated that the six individuals receiving the largest vote totals would be selected.

BY SHOW OF HANDS, THE FOLLOWING SIX NOMINEES WERE SELECTED: MS. CYNTHIA BURTON, DR. MATTHEW DUKE, MR. JERRY GROCE, MR. HEAGER HILL AND MR. RALPH A. MASON.

12. 2007-2008 BUDGET REQUEST

The Secretary reviewed the proposed budget of \$5,533,118 for FY 2007-2008. He reported that this was a 7.62 percent increase but less than the previous year's 12 percent increase. Following several questions by Commissioners concerning the proposed budget, President Gale asked for a motion to approve the budget.

COMMISSIONER ANDERSON MOVED THE ADOPTION OF THE BUDGET REQUEST OF \$5,533,118 FOR FY 2007-2008. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. ELECTION OF NEW MEMBER TO THE ALABAMA LAWYER ASSISTANCE FOUNDATION BOARD OF DIRECTORS

The Secretary stated that the term of Ms. Ann Huckstep had expired and that former Commissioner Carol Stewart had been recommended to fill the vacancy. He stated that as a member of the Board of Commissioners, Ms. Stewart had served as liaison to the Lawyers Assistance Program and would welcome the opportunity to serve on the Foundation Board of Directors.

COMMISSIONER PARSONS MOVED THE ELECTION OF CAROL STEWART TO THE ALABAMA LAWYERS ASSISTANCE FOUNDATION BOARD OF DIRECTORS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. PROPOSED LANGUAGE CHANGES IN MCLE REGULATION 2.7 AND MCLE RULE 6.B

President Gale recognized Commissioner and MCLE Commission Chairman Bill Broome to explain the proposed amendments. Commissioner Broome outlined suggested changes to Regulation 2.7 and Rule 6.B. He stated that the changes to Regulation 2.7 require no action of the Supreme Court while those to Rule 6.B would require action by the Alabama Supreme Court.

Commissioner Broome proposed that Regulation 2.7 be amended to read as follows:

“An attorney who resides and maintains a principle office for the practice of law in another state that requires mandatory continuing legal education (MCLE) and who can demonstrate compliance with the mandatory CLE requirements of his or her principle state of practice is exempt from these rules, except as provided in Rules 5 and 9.” (New language underscored.)

COMMISSIONER BROOME MOVED THE ADOPTION OF THE AMENDATORY LANGUAGE TO REGULATION 2.7. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

Commissioner Broome next proposed the following amendment to Rule 6.B.

“The Chairman of the Disciplinary Commission shall then serve, by certified mail, each attorney whose name appears on those lists with an order to show cause, within sixty (60) days (i.e. within 60 days from the date of the order) why the attorney's license should not be suspended at the expiration of the sixty (60) days. Any attorney so notified may within the 60 days furnish the Disciplinary Commission with an affidavit (a) indicating that the attorney has in fact earned the 12 required CLE credits during the preceding calendar year or has since that date earned sufficient credits to make up any deficiency for the previous calendar year, or (b) indicating that the attorney has in fact completed the professionalism course required by Rule 9.A., or (c) setting forth a valid excuse (illness or other good cause) for failure to comply with either requirement. Payment of non-compliance fee in the amount of \$300 must accompany the affidavit. This sum is in addition to all late fees incurred prior to certification.” (New language underscored.)

COMMISSIONER BROOME MOVED THE APPROVAL OF THE AMENDATORY LANGUAGE TO RULE 6.B. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

15. COMMENTS FROM GUESTS

President Gale invited the guests to offer any comments they wished to make. The guests offered their comments. President Gale thanked them again for attending the meeting.

15. **ADJOURNMENT**

President Gale asked if there was any further business to come before the Commission. There being no further business to come before the Commission, a motion was made and duly seconded to adjourn.

Fournier J. Gale, III President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar