

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, March 13, 2015

1. CALL TO ORDER

President Rich Raleigh 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, Montgomery, Alabama. President Raleigh led the board in the Pledge of Allegiance and Commissioner Portis gave the invocation.

2. SPECIAL GUEST – REMARKS FROM GOVERNOR BENTLEY

Commissioner Shattuck who had previously served as the Governor's Legal Advisor introduced Governor Bentley. Governor Bentley discussed his proposal to raise taxes to cover the anticipated General Fund deficit. He remarked that he does not like taxes, but the expected deficit requires action. Governor Bentley highlighted how the budgets were propped up with stimulus funds when he arrived four years ago. Since then, stimulus funds have been spent and he and the legislature have worked to cut costs by making state government more efficient. He cited examples including the fact that the number of state employees had been reduced by 12 percent. Governor Bentley discussed Alabama's dysfunctional budgeting process caused by the overuse of earmarking in the Special Education Trust Fund and the General Fund. He informed the commission that he plans to raise \$451 million, although \$750 million is needed. He discussed flipping growth taxes to the General Fund from the Special Education Trust Fund which will grow in the future and help offset continuing deficits in the General Fund.

The Governor then discussed specific ways he plans to increase revenue including the implementation of combined reporting for out of state corporations so that these corporations would be paying their fair share of taxes. Governor Bentley said that he also proposes to raise the cigarette tax which he said would not only increase revenue but would also have the effect of helping decrease consumption which in the long run will be good for the state. The third tax increase would be a 4 percent increase in the vehicle sales tax. The Governor explained that none of the proposed tax increases would require a constitutional amendment because they are all statutory.

Governor Bentley recognized that raising taxes will be an uphill battle but he said that he refuses to sugar coat the dire problem that exists with the General Fund budget. He remarked that he did not decide to become governor to spend eight years as a caretaker and that he plans to get things done on behalf of the state and its people. Governor Bentley noted that Alabama is a wonderful state and that he planned to use the prestige and power of the Governor's Office to accomplish this necessary goal. He implored the members of the commission to go home and tell local legislators to help him help the state of Alabama.

Following his remarks, President Raleigh thanked the Governor for speaking to the commission and the commission responded with a standing ovation for the Governor.

3. ROLL CALL

The secretary called the roll of the commission and the following commissioners were present:

Halron Turner	Jerry L. Thornton	Christy Crow
Jana Russell Garner	Terri O. Tompkins	Hays Webb
William H. Broome	Emily L. Baggett	Rocky Watson
Leslie R. Barineau	Barry A. Ragsdale	Robert G. Methvin, Jr.
Augusta S. Dowd	Allison O. Skinner	Kenneth Moore
Ralph E. Holt	Thad Yancey	Henry A. Callaway, III
Walter Honeycutt	Juan Ortega	James Rebarchak
George R. Parker	J. Flynn Mozingo	Cole Portis
Jeffery C. Duffey	James David Martin	Donald Rhea
Tom Perry, Jr.	William Randall May	Robert L. Bowers
Cliff Mendheim	Tazewell T. Shepard, III	John A. Brinkley, Jr.
Rebekah K. McKinney	Daryl Burt	Allan Chason
Sam Irby	H. Thomas Heflin, Jr.	Lee F. Knowles
Sharon Hindman Hester	Gregory M. Varner	Scott L. McPherson
Diandra Debrosse	Cooper Shattuck	Meredith S. Peters
Rebecca G. DePalma	Jeanne Dowdle Rasco	Monet M. Gaines

The following commissioners were absent:

Charles G. Reynolds, Jr.	Teresa G. Minor	Brannon Buck
Derrick A. Mills	Clay Lanham	James R. Beaird
Les Pittman	Julia C. Kimbrough	Anne Malatia Glass
Eric Coale	Thomas B. Albritton	John Earl Paluzzi
F. Patrick Loftin	Jerry Wayne Baker, Jr.	Robert L. Rumsey
Erskine R. Funderburg, Jr.	Jason P. Knight	William T. Chapman, II
Christy Williams Graham	Roger W. Pierce	Stephen M. Kennamer
John M. Plunk	Alicia F. Bennett	Kira Fonteneau
Ashley Swink Fincher		

In addition, President-elect Lee Copeland and Immediate Past President Anthony Joseph were in attendance. Staff members present included Tony McLain, Eric Anderson, Margaret Murphy, Ed Patterson, Justin Aday, Linda Lund, Angela Parks, Jeremy McIntire, Robert Thornhill, Kelley Lee, Christina Butler, Laura Calloway and Mark Moody. Also in attendance was Brandon Hughey, president of the Young Lawyers' Section.

4. INTRODUCTION OF GUESTS

Commissioner Broome introduced Allison Miller, president of the Cleburne/Calhoun County Bar Association. Commissioner Irby introduced John Beck, president of the Baldwin County Bar Association. Commissioner Rebarchak introduced Greg Carwie, vice president of the Mobile Bar Association and Commissioner Duffey introduced Cowin Knowles, president of the Montgomery County Bar Association. Commissioner DePalma recognized special guest Melody Murphy, legal counsel with Ram Tool and

Supply Company. President Raleigh welcomed all of the guests and thanked them for attending the meeting.

5. APPROVAL OF THE MINUTES OF JANUARY 9, 2015 ALABAMA STATE BAR BOARD OF COMMISSIONERS MEETING

President Raleigh stated that the minutes of the January 9, 2015 Board of Commissioners' meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions or deletions. There were none.

COMMISSIONER GAINES MOVED TO APPROVE THE MINUTES OF THE JANUARY 9, 2015 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

6. REPRIMANDS

6.a. Arnold Bush, Jr., Birmingham, ASB 2007-171 (A)

Mr. Bush received a public reprimand with general publication for violation of Rules 1.1, 1.3, 1.4(a), 1.16(d) and 8.4(d), (g) of the *Alabama Rules of Professional Conduct* (ARPC).

6.b. Katherine O. Whiting, Orange Beach, ASB 2013-1117

Ms. Whiting received a public reprimand without general publication for violation of Rules 1.1, 1.3, 1.4(a), 3.2 and 8.4(a), (g) of the *ARPC*.

6.c. Matthew Jon Landreau, Phenix City, ASB 2013-1365

Mr. Landreau received a public reprimand without general publication for violation of Rules 1.1, 1.3, 1.4(a), (b), 1.6(d) and 8.4 (a), (g) of the *ARPC*.

6.d. Jennifer Dawn Gray, Huntsville, ASB 2014-1345

Ms. Gray received a public reprimand without general publication for violation of Rules 3.3(a), (i), 4.1(a), 8.4(a), (c), (d) and (g) of the *ARPC*.

7. PRESIDENT'S REPORT

President Raleigh began somberly noting the deaths of former president Wade Baxley, and former commissioner Bob Jordan. On a more cheerful note, he congratulated Commissioner Tom Albritton on his selection as director of the Ethics Commission and Commissioner Callaway on his selection as bankruptcy judge for the Southern District of Alabama. He then highlighted the Lawyer Legislator Breakfast earlier in the week noting the great turnout of lawyer legislators and others. He spoke about the successful Veterans' Court orientation and the overflow crowd that attended. He concluded by reminding the commissioners that the May meeting would include the Hall of Fame ceremony at the judicial building.

8. SECRETARY'S REPORT

The secretary reported that the Mobile Bar Association had forwarded a resolution in memory of Richard D. Horne and requested that it be placed in the Book of Memorial Resolutions.

COMMISSIONER DOWD MOVED TO ACCEPT THE RESOLUTION FROM THE MOBILE BAR ASSOCIATION IN MEMORY OF RICHARD D. HORNE AND PLACE IT IN THE ALABAMA STATE BAR BOOK OF MEMORIAL RESOLUTIONS. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

The secretary then reviewed the financial report for the first quarter of FY15. Following his report he asked if there were any questions and there were none. He concluded by reporting that efforts were underway to locate an individual to serve as financial director following Ms. Michelle Owens's departure to pursue other interests. The secretary reported that the application deadline was April 1, 2015 and that it was his hope to have a new person in the position no later than the middle of May.

9. OFFICE OF GENERAL COUNSEL REPORT

Mr. McLain reviewed the North Carolina dental case decided by the U.S. Supreme Court and its effect on the Alabama State Bar's regulatory authority and governance. He concluded that it was unlikely to have any effect on Alabama State Bar operations.

10. DIGITAL COMMUNICATIONS REPORT

Mr. Anderson reported that efforts were underway to create a new online registration process for the annual meeting. He stated that the goal was to have it available April 1 for the first day of annual meeting registration. He then reported that an instructional session to enhance digital research would be held at the annual meeting. Mr. Anderson also noted that legislative counsel, Suzi Edwards, had provided the bar with a legislative summary that was posted online and updated weekly. He concluded by stating that the court costs study was online and that the Digital Communications Committee would be offering a recommendation to the commission at a later date regarding member emails.

11. EXTERNAL RELATIONS AND PROGRAMS REPORT

Mr. Patterson thanked Commissioner Irby and Laura Calloway for their work regarding the proposed Solo and Small Firm Section. He stated that the proposed Government Contract Section and several insurance proposals would be forthcoming at the next meeting. He emphasized the fact that annual meeting registration and hotel reservations would be online beginning April 1 and updated the commission on the recent Leadership Forum, Session II held in Mobile.

12. SERVICE PROGRAMS REPORT

Ms. Calloway, Director of Service Programs, informed the commission that a new economic survey was underway and that letters had been mailed to select bar members requesting their participation in the survey. She asked the commissioners to

encourage those in their circuits who received the letters to participate in the much needed survey.

13. AWARD OF MERIT AND COMMISSIONERS' AWARD

President Raleigh encouraged the commission members to consider worthy individuals for these nominations and to make them known by sending that information to the secretary in order to be considered at the next board meeting.

14. UNAUTHORIZED PRACTICE OF LAW UPDATE

Mr. McLain addressed potential legislation to amend the current statute and increase UPL violations to a Class C Felony. He explained elevating the crime to the felony level would serve as a better deterrent to these activities. Mr. McLain also noted that by making UPL a felony, it would encourage more district attorneys to be involved in the process.

15. TERMS AND APPOINTMENTS TO THE LEGAL SERVICES ALABAMA BOARD

President Raleigh explained that the Board of Bar Commissioners appoints a significant number of the members of the board of LSA. He stated that he had been in contact with LSA board president and former commissioner Phil Mitchell about eliminating the routine practice of allowing board members to hold over indefinitely when their initial terms ends. The president noted that this will take several years to straighten out so that appointments will coincide with specified terms of office.

16. RULE III APPLICATIONS

President Raleigh stated that the following individuals had applied for admission by motion pursuant to Rule III of the *Rules Governing Admission to the Alabama State Bar*. He stated they were Mackenzie Hamilton Jessie (OK), Kareem Crayton (MD), John Caleb Smith (PA) and Julia Givens Williams (TN). He stated that each applicant complied with the rule and the character and fitness requirements.

COMMISSIONER SHATTUCK MOVED THE ADMISSION OF MACKENZIE HAMILTON JESSIE, KAREEM CRAYTON, JOHN CALEB SMITH AND JULIA GIVENS WILLIAMS PURSUANT TO RULE III OF THE RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

17. SOLO AND SMALL FIRM TASK FORCE REPORT AND BYLAWS APPROVAL

Commissioner Irby reported that the task force met several times to explore interest in forming a section. As a result, the task force concluded that there was sufficient interest to justify forming a Solo and Small Firm Section.

COMMISSIONER GARNER MOVED TO APPROVE THE BYLAWS FOR THE PROPOSED SOLO AND SMALL FIRM SECTION. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

18. ELECTION RULES AMENDMENT

Commissioner Skinner explained the purpose of the amendment which was clarify that the burden is on a commission candidate or candidate for president-elect to make sure that the state bar timely receives nomination materials as specified under the rules. She stated that the amendment would become effective with the 2016 elections. A copy of the proposed amendment was included with the commissioners' materials.

COMMISSIONER MENDHEIM MOVED TO APPROVE THE AMENDMENT AS CIRCULATED AND THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

[A copy of the amendment as proposed and adopted is attached to these minutes and appears as Appendix A.]

19. ADMISSION FEE INCREASE

The Director of Admissions, Justin Aday, explained the need for an exam fee increase of \$100. He stated that in order to implement the new software package being requested by the admissions department so that the department would become paperless with respect to bar applications, a fee increase (from \$475 to \$575) was necessary. He noted that the fee increase would cover initial installation costs for the software and the anticipated annual costs associated with maintaining the software in the future. He also stated that he would recommend that the bar no longer collect the National Association of Bar Examiners (NCBE) character report fee and transfer this responsibility on to NCBE. He stated that the fee increase would become effective April 1, 2015. President Raleigh pointed out that the fee increase would place Alabama in the middle of other southeastern states with respect to amount of admission fees.

COMMISSIONER MOZINGO MOVED TO APPROVE AN INCREASE IN THE ADMISSION FEE OF \$100 EFFECTIVE APRIL 1, 2015 AND TO ALLOW THE NCBE TO COLLECT THE CHARACTER REPORT FEES FOR THOSE INDIVIDUALS FOR WHICH A CHARACTER REPORT IS REQUIRED. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

20. COMPENSATION STUDY

The secretary stated that the Personnel Committee had recommended the expenditure of up to \$7500 to cover a compensation study of state bar staff by Willis Company of Atlanta. He explained that because the bar is a hybrid organization (with characteristics of both an association and a state agency), it was difficult to match job categories that are distinct from those of either a state agency or a private association. He stated that as a consequence, the executive director and the officers lack a fair comparison of salary ranges. He noted that a study would provide the executive director and the officers with the necessary tools to analyze salary structure and to ensure that the state bar has a reasonable and fair basis for all salary decisions in the future. The secretary noted that the second proposal of Quatt and Associates of Washington, DC was also included but it was more elaborate and would be in the \$25,000 to \$35,000 range.

COMMISSIONER DOWD MOVED TO AUTHORIZE THE EXPENDITURE OF UP TO \$7500 FOR A COMPENSATION STUDY BY WILLIS COMPANY OF ATLANTA, GEORGIA. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

21. REAPPOINTMENT OF MEMBERS TO JUDICIAL INQUIRY COMMISSION

President Raleigh stated that the four year terms of Commissioner Augusta Dowd and former commissioner Billy Bedsole on the Judicial Inquiry Commission had expired. He stated that they indicated a willingness to continue serving on the Judicial Inquiry Commission if the Board of Bar Commissioners' was inclined to reappoint them.

COMMISSIONER IRBY MOVED THE REAPPOINTMENT OF AUGUSTA DOWD AND BILLY BEDSOLE AT THE CONCLUSION OF THEIR CURRENT TERMS TO A SECOND FOUR YEAR TERM. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

22. ABA HOUSE OF DELEGATE APPOINTMENT

President Raleigh stated that Commissioner Barineau had served a two year term in the ABA House of Delegates and had indicated her willingness to continue.

COMMISSIONER METHVIN MOVED TO RE-ELECT LESLIE BARINEAU AS THE ALABAMA STATE BAR DELEGATE TO THE ABA HOUSE OF DELEGATES WITH A NEW TERM TO COMMENCE AT THE CONCLUSION OF THE 2015 ABA ANNUAL MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

23. ABA HOUSE OF DELEGATES YLS REPRESENTATIVE

President Raleigh stated that the position of the Alabama State Bar young lawyers' representative to the ABA House of Delegates would become vacant at the conclusion of this year's ABA annual meeting. He noted that the Young Lawyers' Section had recommended Lee Johnsey of Birmingham to fill the position. The president explained that Mr. Johnsey would be replacing Ms. Kitty Brown who had aged out of the Young Lawyers' Section.

COMMISSIONER PORTIS MOVED TO ELECT LEE JOHNSEY OF BIRMINGHAM AS THE YOUNG LAWYER REPRESENTATIVE TO THE ABA HOUSE OF DELEGATES AT THE CONCLUSION OF THE 2015 ABA ANNUAL MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

24. RATIFICATION OF NOMINEES FOR THE OFFICE OF INDIGENT DEFENSE SERVICES DIRECTOR

President Raleigh explained that the Executive Council had recommended the names of three individuals to the finance director for consideration as director of the Office of Indigent Defense Services. He stated that they were Stephen Dodd, Alicia May and Chris Roberts. President Raleigh noted that the Indigent Defense Committee had vetted 33 applications and recommended eight names for the Executive Council to interview. He stated that after the interviews, the three individuals above were recommended to the

finance director in order to comply with the requirement that nominations for the vacancy be submitted to the finance director within 90 days of the occurrence of the vacancy.

COMMISSIONER BROOME MOVED TO RATIFY AND APPROVE THE THREE NOMINEES THE EXECUTIVE COUNCIL RECOMMENDED TO THE FINANCE DIRECTOR TO FILL THE VACANCY OF THE OFFICE OF INDIGENT DEFENSE SERVICES DIRECTOR. THE MOTION WAS SECONDED.

A brief discussion ensued. Commissioner Broome expressed his appreciation for Commissioner Webb and the outstanding work of the Indigent Defense Committee which initially vetted the 33 applications.

FOLLOWING THE REMARKS, COMMISSIONER BROOME'S MOTION WAS APPROVED BY UNANIMOUS VOICE VOTE.

25. REAPPOINTMENT OF LSA BOARD MEMBERS

President Raleigh stated that the terms of the following individuals on the Legal Services Alabama Board of Directors had expired. He noted that they were being recommended for reappointment to three year terms and were: Alex Smith, Jimbo Terrell, Phil Mitchell, Tom Heflin, Bill Broome, and Norm Bradley. President Raleigh then stated that Rick Davis of Birmingham was being recommended to replace John Earnhardt who had resigned from the board.

COMMISSIONER BAGGETT MOVED TO RE-ELECT ALEX SMITH, JIMBO TERRELL, PHIL MITCHELL, TOM HEFLIN, BILL BROOME AND NORM BRADLEY TO THREE YEARS ON THE LSA BOARD AND TO ELECT RICK DAVIS TO FILL THE UNEXPIRED TERM OF JOHN EARNHARDT. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

26. NOMINATIONS TO THE ALABAMA SECURITIES COMMISSION

President Raleigh explained that Alabama State Bar recommends the names of three individuals for the Governor to consider and from which he appoints one to serve on the Alabama Securities Commission. He stated that the term of Everette Price had expired but that Mr. Price had expressed his desire to be re-nominated for the position. President Raleigh noted that the names of the other two individuals for recommendation to the Governor were Austin Huffaker of Montgomery and Scotty Lewis of Baldwin County.

COMMISSIONER SHATTUCK MOVED TO APPROVE THE NAMES OF EVERETTE PRICE, AUSTIN HUFFAKER AND SCOTTY LEWIS TO BE SENT TO THE GOVERNOR AS NOMINEES TO FILL THE VACANCY ON THE SECURITIES COMMISSION AT THE CONCLUSION OF MR. PRICE'S CURRENT TERM. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

27. **ADJOURNMENT**

President Raleigh 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. The motion was approved by voice vote.

Richard J.R. Raleigh, Jr., President
Alabama State Bar

ATTEST:

Keith B. Norman, Secretary
Alabama State Bar