

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
BAR CENTER, ALBANY, NEW YORK  
NOVEMBER 7, 2009**

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Mr. Younger presided over the meeting as Chair of the House.

**PRESENT:** Aaron; Abernethy; Alcott; Alden; Amoruso; Asarch; Bailey; Barreiro; Baum; Baynes; Behrins; Berke-Weiss; Block; Bracken; Brown, T.; Burke, P.; Burns, H.; Burns, S.; Buzard; Chang; Chapman; Chase; Chin; Coffey; Cohen, D.; Cohen, M.; Convissar; Costello; Cusano; Davidoff; DeFio Kean; Denton; Di Pietro; Dohn; Dollard; Doyaga; Dumas; Effman; Fennell; Fernandez, Hermes; Finerty; Fish; Fox; Franchina; Gaffney; Gall; Gann; Gerstman; Gesinsky; Getnick; Gigliotti; Gingold; Glasheen; Goldenberg; Golinski; Good; Gould; Grayson; Green; Greenthal; Gutekunst; Gutenberger; Gutheil; Haig; Hanna; Harren; Hassett; Hayes; Hendry; Hernandez; Herrmann; Ho; Hoffman; Hollyer; Hurteau; Jackson; James, S.; Kahler; Kahn; Kamins; Kanter; Karabatos; Kelly; Kera; Kingsley; Kurland; Kurs; Lais; Laluk; Larose; Larson; Lau-Kee; Lawrence; Leo; Lesk; Levin; Lewis; Lieberman; Liebman; Longo; Lonuzzi; Luskin; Madigan; Makofsky; Manias; Martin, E.; Martin, T.; Mattei; Mayer; McNerney; Meislahn; Miklitsch; Millett; Minkowitz; Miranda; Nathanson; O'Donnell; Onderdonk; O'Neill; Ostertag; Park; Perlman; Peterson; Pogson; Price; Privitera; Quaranta; Randazzo; Rauer; Richardson; Roberts-Ryba; Robinson; Rodriguez; Rosenthal; Rosiny; Rosner; Rothstein; Ryan; Safer; Sanchala; Sandford; Sands; Schindel; Schneider; Schofield; Schraver; Schwartz, S.; Seitz; Selinger; Sen; Sigmond; Silkenat; Smith, G.; Smith, T.; Sonberg; Spiro; Standard; Stanislaus-Fung; Starkman; Sterrett; Stone; Strauss, F.; Sunshine; Syracuse; Szochet; Terranova; Tesser; Tilton; Torrey; Tsan; Tyler; Vigdor; Virkler; Waachtler; Walsh, J.; Watkins; Weinberger; Weis; Winkler; Witmer; Wood; Yavinsky; Younger; and Zulack.

1. Approval of minutes of June 20, 2009 meeting. The minutes were deemed accepted as previously distributed.
2. Report of the Treasurer. Mr. James reported that through September 30, 2009, the Association's total revenue was \$20.2 million, a decrease of approximately \$1.6 million over the previous year, and total expenses were \$17.3 million, a decrease of approximately \$267,000 over 2008. The operating surplus was \$2.8 million, approximately \$1.3 million less than the previous year. Mr. James also provided a report on the status of the long-term reserve investments, the Cromwell Fund investments, and a six-year comparison of CLE revenue. The report was received with thanks.
3. Report and recommendations of Finance Committee. David M. Schraver, chair of the Finance Committee, summarized the committee report and recommendations regarding the following matters. It was announced that the Executive Committee had endorsed both items for favorable House action.

- a. Proposed 2008 budget. The proposed budget for 2010 was reviewed, projecting income of \$24,557,120 and expenses of \$24,557,120, with a projected surplus of \$0. A motion was adopted to approve the proposed 2010 budget.
  - b. Affordable dues program. The committee recommended extension through 2010 of the affordable dues program that enables members who are experiencing temporary financial hardship to continue their membership through waivers of their dues at various levels. A motion was adopted to extend this program as proposed.
4. Report of Lawyer Assistance Committee. Lawrence A. Zimmerman, chair of the Lawyer Assistance Committee, updated the members on the Committee's activities and reported the results of a survey the Committee conducted of members of the House and law firm managing partners as to whether their firms had policies on dealing with impaired attorneys. He reported that the Committee will hold a program during the Annual Meeting to educate members on management of impaired attorneys and will develop a model policy for presentation to the House in 2010. The report was received with thanks.
5. Report of President. In addition to the information contained in his printed report, a copy of which is appended to these minutes, Mr. Getnick reported on the following:
  - a. He reported the results of the Nominating Committee's consideration of candidates for Association offices. Nominated were Vincent E. Doyle, III as President-Elect; David P. Miranda as Secretary; Seymour W. James, Jr. as Treasurer; Samuel F. Abernethy, Hon. Margaret Finerty, Eileen D. Millett and Sherry Levin Wallach as members-at-large of the Executive Committee; and A. Vincent Buzard, Vincent E. Doyle, III, Michael L. Fox (Young Lawyer delegate), Michael E. Getnick, A. Thomas Levin, Kathryn Grant Madigan as delegates to the American Bar Association's House of Delegates. The House congratulated the nominees and Mr. Getnick thanked Mr. Alcott for his service as chair of the Nominating Committee.
  - b. He is appointing a Task Force on Identifying and Accessing the Uniform Rules for Trial Courts, to be co-chaired by Jay G. Safer of New York City and Jessie Anne Aitcheson of Albany, and has asked the Vice Presidents from each judicial district to be responsible for input on the rules in their respective districts.
  - c. He introduced H. Douglas Guevara as the Association's new Senior Director for Continuing Legal Education and thanked Terry J. Brooks, who is retiring from that position, for his 33 years of service to the Association.
  - d. He recorded three non-commercial sustaining announcements for broadcast on radio stations statewide on the subjects of pro bono, mortgage foreclosure, and debt. The announcements were played for the House.

6. Report and recommendations of Special Committee to Review the Code of Judicial Conduct. Hon. Joseph P. Sullivan, chair of the Special Committee, and Prof. Patrick M. Connors, the Special Committee's reporter, outlined the Committee's work in reviewing the ABA Model Code of Judicial Conduct and developing a proposed Code of Judicial Conduct for New York. After discussion, a motion was made to approve the scheduling resolution offered by the Committee after which a motion was approved to amend the resolution to provide for House consideration of the Committee's report at the April 10, 2010 meeting rather than the January 29, 2010 meeting. The following amended resolution was then approved:

**RESOLVED**, that the House of Delegates hereby adopts the following procedures to govern consideration at the April 10, 2010 meeting of the House, and any subsequent meetings as may be necessary, of the report and recommendations of the Special Committee to Review the Code of Judicial Conduct:

1. The report and recommendations of the Special Committee will be circulated to members of the House, sections and committees, county and local bar associations, and other interested parties immediately following this meeting.
2. **Comments on report and recommendations:** Any comments on the Special Committee's report or amendments to particular recommendations contained therein must be submitted in writing to the Secretary of the Association at the Bar Center by March 1, 2010; otherwise they shall not be considered. All comments/amendments complying with this procedure shall be distributed to the members of the House in advance of the April 10, 2010 meeting.
3. **Amendments.** Any amendments to the committee's proposed rules must be submitted in writing to the Secretary of the Association in accordance with the following:
  - a. All amendments must be presented with deletions noted by strikeovers and new material by underscoring, and be accompanied by a brief explanation of the proposed changes; otherwise they shall not be considered. All amendments complying with this procedure shall be distributed to the members of the House in advance of the meeting at which they are to be considered.
  - b. Only one level of amendment will be permitted. Thus, if an amendment to a proposed rule is pending, no amendment of that proposed amendment is in order.
  - c. No amendments will be permitted from the floor of the House except with respect to modifications made by the Special Committee subsequent to March 1, 2010.

- d. In advance of the meeting, the committee may review comments and amendments submitted in accordance with this paragraph and amend its proposals in response to such comments and amendments.

**4. Consideration of report at April 10, 2010 and subsequent meetings.** Consideration of the proposed rules shall take place in the following manner:

- a. A representative of the committee shall have three minutes to present each rule. The proponents of any amendments shall have three minutes to present them.
- b. All those wishing to speak with regard to a particular rule/amendment may do so only once for no more than three minutes, except the sponsor of any amendment may speak a second time for two minutes, and a representative of the committee shall have two minutes to close.
- c. A vote on each rule shall be taken, requiring a majority vote for adoption.
- d. Procedural motions shall be considered out of order until debate on all substantive amendments has been concluded.

**5. Upon conclusion of debate and vote on the complete set of rules, a vote will be taken to authorize the committee and officers to make any necessary stylistic changes that may be necessary for the sake of uniformity and to authorize transmittal of the rules, as they may have been amended, to the Chief Administrative Judge.**

- 7. Report of Task Force on Wrongful Convictions. Hon. Phylis S. Bamberger, chair of the Task Force, reviewed the Task Force's work in developing its report that was approved by the House in April 2009 and current work in implementing its recommendations. She noted that the Task Force is preparing proposed legislation for introduction during the 2010 legislative session. In addition, she reported that she had attended meetings of the Chief Judge's Task Force on Wrongful Convictions and that the Task Force will cooperate with the Chief Judge's group in its work. The report was received with thanks.
- 8. Report of Committee on Lawyers in Transition. Lauren J. Wachtler, the Committee's chair, updated the House on the Committee's activities with respect to assisting lawyers seeking employment opportunities. She noted that the Committee has conducted a series of webinars that have been well received and are archived on the committee's web page and reviewed the website resources, including blogs that have been developed. She reported that a number of people have been placed with judges in volunteer clerkships. Finally, she reported that a new job search engine is in the process of being implemented

that is anticipated to provide improved job search assistance. The report was received with thanks.

9. Report of The New York Bar Foundation. M. Catherine Richardson, President of The Foundation, updated the House on The Foundation's activities, including the cy pres grant awarded to The Foundation earlier in the year and the donation of Lorraine Power Tharp's antique desk by her husband, which brought \$30,000 at auction. She asked the members of the House to remember The Foundation in their end-of-year giving plans. The report was received with thanks.
10. Administrative items. Mr. Younger reported on the following items:
  - a. The Special Committee on Sarbanes-Oxley Issues has completed its work and is being discharged. Mr. Younger thanked Mr. Ayers for his service as chair of the Special Committee.
  - b. He noted that the House of Delegates dinner will be held on Thursday, January 29, 2010 in New York City and encouraged members to attend.
  - c. He reported that immediately following the meeting, the Committee on Diversity and Leadership Development would host a program, open to all House members interested in increasing their level of activity in the Association, on leadership opportunities.
11. Date and place of next meeting. Mr. Younger announced that the next meeting of the House of Delegates would take place on Friday, January 29, 2010 at the New York Hilton, New York City.
12. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



C. Bruce Lawrence  
Secretary