

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 17, 2012**

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

PRESENT: Abella; Ajaiyeoba; Alcott; Ayers; Bakner; Barnes; Baum; Beckford; Behrins; Berman; Brown, T. Andrew; Brown, Terryl; Buholtz; Cahill; Christian; Clark; Cohen, D.; Cohen, O.; Crummey; Davidoff; Davis, M.; Davis, T.; Di Pietro; Donaldson; Doyle; Dunne; Effman; Eppler; Fallek; Feinberg; Feinman; Ferris; Finerty; Fisher; Fontaine; Fox; Freedman, H.; Friedman; Gaffney; Gall; Galligan; Gensini; Gerace; Getnick; Giordano; Glanstein; Gold; Gutekunst; Gutenberg; Gutheil; Gutierrez; Haig; Hall; Hanna; Hanson; Harper; Hassett; Hilowitz; Hoag; Honig; Hoskins; Hurteau; Hutter; Jackson; Jaglom; James; Kahler; Kahn; Kamins; Kaplan, E.; Karalunas; Kelly, M.; Kiernan; Klein; Kobak; Laluk; Lashley; Lau-Kee; Lawrence; Lee; Lessard; Levin; Levy; Marinaccio; Martin, D.; Marwell; Mayer; McCafferty; McDonald; McEntee; McKay; McKeegan; Meacham; Minkowitz; Miranda; Moretti; Mulhall; Myers; Nowotny; Onderdonk; Ostertag; Perlman; Pettit; Pogson; Pontius; Prager; Rauer; Reed; Richman; Richter; Riley; Risi; Rivera; Robb; Robertson; Rodriguez; Romero; Rosenthal; Rosiny; Rosner; Rothstein; Russ; Sachs; Salkin; Scanlon; Schofield; Schraver; Schwartz, S.; Shamoon; Shulman; Sigmond; Singer; Slavin; Slezak; Sonberg; Stanislaus; Starkman; Stenson Desamours; Sweet; Taylor; Terranova; Timins; Torrey; Tully; Ugurlayan; Walker; Wallach; Watkins; Weis; Westlake; Wimpfheimer; Wolk; Woronov; Yeung-Ha; Young; and Younger.

1. Approval of minutes of June 23, 2012 meeting. The minutes were deemed accepted as previously distributed.
2. Report of Treasurer. Claire P. Gutekunst, Treasurer, reported that through September 30, 2011, the Association's total revenue was \$22,703,000, an increase of \$2,151,000 from the previous year, and total expenses were \$17,622,000, an increase of \$50,000 from the previous year. The operating surplus was \$5,081,000. Ms. Gutekunst also highlighted several revenue and expense items. The report was received with thanks.
3. Report and recommendations of Finance Committee re proposed 2013 income and expense budget. John S. Marwell, chair of the Finance Committee, reviewed the proposed budget for 2013, which projects income of \$25,920,450, expenses of \$25,439,155, with a projected surplus of \$481,295. A motion was adopted to approve the proposed 2013 budget.
4. Report and recommendations of Committee on Bylaws. A. Thomas Levin, a member of the Bylaws Committee, outlined the amendments proposed by the committee to add an additional delegate from the Judicial Section to the House of Delegates and to reclassify membership categories. Subscription forms were provided to the delegates to subscribe to the proposed amendments in order to place the proposed amendments on the agenda for action at the Annual Meeting. Following tabulation of the completed forms, Mr. Schraver reported that the proposed amendments had not received the required

subscriptions to permit their consideration at the Annual Meeting and that, consistent with prior practice, House members who were not in attendance would be afforded an opportunity to record their subscriptions by mail.*

5. Report of President. Mr. James highlighted the information contained in his printed report, a copy of which is appended to these minutes.
6. Report and recommendations of Task Force on Family Courts. This report has been postponed until January.
7. Report and recommendations of Task Force on Nonlawyer Ownership. Stephen P. Younger, chair of the Task Force, David A. Lewis, vice-chair and Lia M. Brooks, secretary to the Task Force, presented the report and recommendations of the Task Force on Nonlawyer Ownership, including a discussion of the history of this issue, the recent discussion and ultimately withdrawn proposals put forth by the ABA Commission on Ethics 20/20 and the Task Force's process, observations and conclusions. After discussion, a motion to amend the resolution to remove language in the second "Resolved" paragraph to read, "Resolved, that the Association reaffirms its opposition at this time to any form of nonlawyer ownership," failed. A motion to table consideration of the report failed. After discussion, the following resolution was adopted:

WHEREAS, in 2000 the New York State Bar Association approved a resolution from the Special Committee on the Law Governing Firm Structure and Operation that provided, inter alia, that "[n]o change should be made to the law that now prohibits lawyers and law firms directly or indirectly from transferring ownership or control to nonlawyers over entities practicing law"; and

WHEREAS, in December 2011 the ABA Commission on Ethics 20/20 released for comment a discussion draft proposing a limited form of nonlawyer ownership of law firms and a paper addressing the sharing of fees between or among firms with offices in jurisdictions where nonlawyer ownership is permitted; and

WHEREAS, in view of the fact that more than ten years had passed since this issue was examined by NYSBA, the Task Force on Nonlawyer Ownership was appointed to consider the nonlawyer ownership proposals, evaluate whether the proposals would advance the profession's core values of loyalty, independence and confidentiality; and

WHEREAS, in April 2012, the ABA Commission on Ethics 20/20 issued a press release indicating that it will not propose changes to ABA policy prohibiting nonlawyer ownership of law firms at this time, and thus withdrawing its December 2011 discussion draft proposing a limited form of nonlawyer ownership of law firms; and

* The required subscriptions were subsequently received.

WHEREAS, the Task Force has completed a report concluding that New York should not adopt any form of nonlawyer ownership in the absence of compelling need, empirical data or pressure for change; and

WHEREAS, in September 2012 the ABA Commission on Ethics 20/20 issued a revised paper withdrawing its December 2011 proposal concerning the division of fees within a law firm, and addressing the division of fees between lawyers in different firms where one lawyer practices in a firm in a jurisdiction that prohibits nonlawyer ownership and the other practices in a firm with nonlawyer owners in a jurisdiction that permits it (the Inter Firm Fee Sharing Proposal); and

WHEREAS, in October 2012, the ABA Commission on Ethics 20/20 issued a press release indicating that it will not propose changes to ABA policy with regard to sharing of fees with law firms in jurisdictions that permit nonlawyer ownership, withdrawing its September 2012 discussion draft proposing an Inter Firm Fee Sharing Proposal and referring the issue to the ABA's Standing Committee on Ethics and Professional Responsibility;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association approves the report and recommendations of the Task Force on Nonlawyer Ownership; and it is further

RESOLVED, that the Association reaffirms its opposition at this time to any form of nonlawyer ownership of law firms in the absence of a sufficient demonstration that change is in the best interest of clients and society, and does not undermine or dilute the integrity of the legal profession; and it is further

RESOLVED, that the Association refers the issue of how to implement the policy behind the Inter Firm Fee Sharing Proposal to the Association's Committee on Standards of Attorney Conduct with the request that the Committee report back to the House of Delegates; and it is further

RESOLVED, that the issue of nonlawyer ownership be the subject of further study and analysis by appropriate entities of the Association; and it is further

RESOLVED, that the officers of the Association are hereby empowered to take such other and further steps as they may deem warranted to implement this resolution.

8. Report and recommendations of Special Committee on Veterans. Michael C. Lancer, co-chair of the Special Committee on Veterans, presented the report and recommendations of that Special Committee, including its support for veterans' treatment courts, improved legal training for lawyers seeking to assist veterans and improved access to legal services. After discussion, a motion was adopted to approve the following resolution:

WHEREAS, the NYSBA expresses its appreciation to veterans of the armed forces for their service to our country; and

WHEREAS, veterans of service in the armed forces often have the need for specialized legal services, tailored to military service and culture; and

WHEREAS, the New York State Bar Association's Special Committee on Veterans was appointed to focus on the unique legal needs of military veterans and service members; and

WHEREAS, the Special Committee has completed a report recommending the expansion of veterans courts throughout New York State; ongoing training opportunities for attorneys who want to provide civil legal services to veterans; the establishment of local bar committees to address military law and veterans' issues; and the development of legal referral services to veterans by the New York State Bar Association's Lawyer Referral and Information Service any by local bar lawyer referral services;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association approves the report and recommendations of the Special Committee on Veterans; and it is further

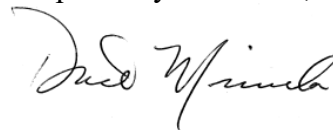
RESOLVED, that the Committee on Committees is directed to conduct a review of the Special Committee on Veterans and recommend whether it should be designated as a standing committee of the Association; and it is further

RESOLVED, that the officers of the Association are hereby empowered to take such other and further steps as they may deem warranted to implement this resolution.

9. Report of Secretary. David P. Miranda, Secretary, reported on recent developments related to implementing the recommendations of the Task Force on the Future of the Legal Profession, including a recent meeting with law school deans, the favorable response of law schools to the Task Force's recommendations and the Association's ongoing work to strengthen its ties with law schools in New York State. The report was received with thanks.
10. Report of Executive Director. Patricia K. Bucklin, Executive Director, updated the House with respect to staff and internal operations, including developments and recent key accomplishments of the following departments: Membership Services, Continuing Legal Education (including Publications and Law Practice Management), Marketing and Management Information Services. The report was received with thanks.
11. Report of The New York Bar Foundation. Cristine Cioffi, President of The New York Bar Foundation, presented an update with regard to recent developments including the disaster relief fund, the annual appeal and new Foundation Administrator Deborah Aupselmeyer. The report was received with thanks.
12. Administrative items. Mr. David M. Schraever reported on the following items:

- a. Mr. Schraver noted that the materials included a proposed amendment by the Audit Committee to its duties and responsibilities. A motion was made to amend the language to insert “within the scope of the Committee’s duties” after “any matters,” which was approved. As amended, the motion to approve was adopted.
 - b. Mr. Schraver announced that the House of Delegates Dinner will take place on Thursday, January 24, 2013 at Gotham Hall.
13. New business. Michael E. Getnick, chair of the Nominating Committee, reported the Committee had nominated the following individuals for election to the indicated offices for the 2012-2013 Association year: President Elect: Glenn Lau-Kee, New York; Secretary: David P. Miranda, Albany; Treasurer: Sharon Stern Gerstman, Buffalo; Vice Presidents: 1st District – Catherine A. Christian, New York and Jay G. Safer, New York; 2nd District – Manuel A. Romero, Brooklyn; 3rd District – Lillian M. Moy, Albany; 4th District – Rebecca A. Slezak, Amsterdam; 5th District – Thomas E. Myers, Syracuse; 6th District – Mark S. Gorgos, Binghamton; 7th District – June M. Castellano, Rochester; 8th District – Cheryl Smith Fisher, Buffalo; 9th District – Hon. Arlene Gordon-Oliver, Harrison; 10th District – Scott M. Karson, Melville; 11th District – Richard M. Gutierrez, Forest Hills; 12th District – Steven E. Millon, Bronx; 13th District – Michael J. Gaffney, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2013: T. Andrew Brown, Rochester; David Louis Cohen, Kew Gardens; Evan M. Goldberg, New York; Oliver C. Young, Buffalo. Nominated as Section Representatives to the Executive Committee were Ira S. Goldenberg, White Plains (2-year term (June 1, 2013 – May 31, 2015)) and James B. Ayers, Albany (1-year term (June 1, 2013 – May 31, 2014)), and James R. Barnes was nominated as Young Lawyers Section Representative to the Executive Committee. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2013-2015 term: Seymour W. James, Jr., New York; Glenn Lau-Kee, New York; Bernice K. Leber, New York; A. Thomas Levin, Garden City; Stephen P. Younger, New York.
14. Date and place of next meeting. Mr. Schraver announced that the next meeting of the House of Delegates would take place on Friday, January 25, 2013 at the Hilton New York, New York City.
15. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully submitted,



David P. Miranda
Secretary