

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

State Bar Building
Montgomery, Alabama

Friday, September 16, 2022

1. **INVOCATION** – Elizabeth Smithart
2. **CALL TO ORDER**

President Gibson Vance 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. Commissioner Elizabeth Smithart led the members in the Pledge of Allegiance.

3. **ROLL CALL**

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

Conrad Anderson
Sally Bowers
Brannon Buck
Joel Connally
Mark Debro
Lang Floyd
Scott Foster
Christy Graham
Josh Hayes
Erik Heninger
Angela Kennedy
Felicia Long
Clay Martin
Cliff Mendheim
Steve Nicholas
Tom Perry
John Rea
Freddy Rubio
Holly Sawyer
Jason Simmons
Elizabeth Smithart

Mark Boardman
Jeff Bowling
Matthew Carter
Bradley Cornett
Richard Fikes
Kira Fonteneau
Kirk Garrett
Dana Grimes
Fred Helmsing
Carmen Howell
Jorja Loftin
David Martin
Bob McMillan
Kenneth Moore
Andrew Nix
Bobby Poundstone
Ryan Robichaux
Steven Savarese
Pat Sefton
Allison Skinner
John Smyth

Kyra Sparks
 Brian Strength
 Leila Watson

John Stamps
 Jeff Utsey
 Robin Wolfe

The following commissioners were absent:

Raymond Bell
 Robert Brogden
 Clay Carr
 Jana Garner
 Leon Hampton
 Brett Holsombeck
 Brett King
 William Lancaster
 David Langston
 Doug Martinson
 LaBella McCallum
 Manish Patel
 Chrissy Riddle
 Andrew Stanley
 Mallory B. Whitley

Edgar Black
 Will Broome
 Deborah Dunsmore
 Anne Glass
 Scott Holmes
 Mitch Kemmer
 Edward Lamberth
 Leigh Anne Landis
 Don Mansell
 Clint Maze
 Tina Moon
 Chuck Price
 Taze Shepard
 Jimbo Terrell

QUORUM PRESENT

Also in attendance were staff members in attendance were: Roman Shaul, Merinda Hall, Melissa Warnke, Linda Lund, Jeremy Rakes, Autumn Caudell, Karen Laneaux, Suzi Huffaker, and Michelle Shaw.

4. APPROVAL OF AGENDA

President Vance asked for approval of the agenda.

COMMISSIONER TOM PERRY MOVED TO AMEND THE AGENDA TO MOVE THE FINANCIAL REPORTS ALONG WITH THE FY 2024 BUDGET PROPOSAL TO AN ACTION ITEM. THE MOTION WAS SECONDED BY MARK DEBRO AND APPROVED BY UNANIMOUS VOICE VOTE. COMMISSIONER ALISON SKINNER MOVED TO APPROVED THE AGENDA AS AMENDED. THE MOTION WAS SECONDED BY MARK DEBRO AND APPROVED BY UNANIMOUS VOICE VOTE.

5. INTRODUCTION OF GUESTS

President Crow recognized special guests including Associate Justice Mike Bolin, Associate Justice Will Sellers, Associate Justice Sarah Stewart, Supreme Court Clerk Megan Rhodebeck.

6. **INTRODUCTION OF NEW COMMISSIONERS**

New Commissioners made their own introduction as follows:

Jeff Utsey, Brian Strength, Josh Hayes, Andrew Nix, Conrad Anderson, Steven Nicholas, Richard Fikes, Bobby Poundstone, Robin Wolfe, Jorja Loftin, Steven Savarese, and Matt Carter.

7. **APPROVAL OF THE MINUTES OF THE JUNE 22, 2022, AND JUNE 25, 2022, BOARD MEETINGS AND THE MINUTES OF THE JUNE 25, 2022, GRAND CONVOCATION AND BUSINESS MEETING.**

President Vance stated that the minutes of the June 22, 2022, and June 25, 2022, Board Meetings and the minutes of the June 25, 2022, Grand Convocation and Annual Business Meeting had been transcribed and circulated prior to the meeting. He asked if there were any corrections, additions, or deletions. Commissioner Leila Watson's name was removed as present at the June 22, 2022, and June 25, 2022, board meetings.

COMMISSIONER FRED HELMSING MOVED TO APPROVE THE MINUTES OF THE JUNE 22, 2022, AND JUNE 25, 2022, BOARD MEETINGS AND THE MINUTES OF THE JULY 25, 2022 GRAND CONVOCATION AND ANNUAL BUSINESS MEETING. THE MOTION WAS SECONDED AND APPROVED BY UNANIMOUS VOICE VOTE.

8. **REPRIMANDS**

Christopher Mark Kaminski - ASB No. 2019-1100 - Kaminski was issued a public reprimand with general publication on September 16, 2022, for violating Rules 8.4(a), (d) and (g) [Misconduct], *Alabama Rules of Professional Conduct* for engaging in an extra-marital relationship with attorney Amy Marshall while serving as the district court judge for Coffee County and routinely appointing Marshall to cases over which Kaminski presided and took judicial action in where Marshall was of counsel of record before and after the relationship became public. Kaminski subsequently admitted to violating Canons 1, 2, 2A, 2B, 2C and 3C(1) of the *Canons of Judicial Ethics*. As a result, Kaminski resigned his position as district court judge and agreed to never seek judicial office again.

Amy Cauthen Marshall - ASB No. 2019-1130 - Marshall was issued a public reprimand with general publication on September 16, 2022, for violating Rules 1.7(b) [Conflict of Interest: General Rule], 8.4(f) and (g) [Misconduct], *Alabama Rules of Professional Conduct*. Marshall was involved in an extra-marital affair with District Court Judge Christopher Kaminsky. During the affair and before the relationship became public, Marshall failed to disclose her relationship with Judge Kaminski to her clients, opposing

counsels or opposing parties. Marshall also did not seek and did not obtain conflict waivers from her clients regarding her relationship with Kaminski.

Albert Jones - ASB No. 2019-1050 - Jones was issued a public reprimand without general publication for violating Rules 1.2 [Scope of Representation], 1.4 [Communication], and 8.4(g) [Misconduct], *Alabama Rules of Professional Conduct* for his failure to adequately and timely communicate with a client regarding the status of her case. Jones informed the client that her case had not been settled, when in fact the client had obtained a copy of a “Joint Notice of Settlement” form from the court. Jones subsequently admitted that he settled the client’s case because he believed she was going to lose her case on summary judgment and believed he had obtained the client’s permission to settle the case. However, Jones was unable to produce any proof that he had obtained the client’s permission or that of the Bankruptcy Court to settle the case.

Neil John Halvorson - ASB No. 2019-1079 - Halvorson was issued a public reprimand with general publication on September 16, 2022, for violating of Rules 1.7 [Conflict of Interest: General Rule], 1.8 [Conflict of Interest: Prohibited Transactions], and 5.5 [Unauthorized Practice of Law], *Alabama Rules of Professional Conduct*. Halvorson failed or refused to obtain a waiver of conflicts in representing two business entities, an individual and a business owned and operated by said individual. Further, Halvorson drafted and was paid a fee for estate planning documents for an Illinois resident that intended to dispose of property located in Illinois according to Illinois law. Halvorson is not licensed Illinois and may have been in Alabama when he drafted estate planning documents but knew the same would be signed and become effective in Illinois.

Dantwann Sherrod Crane - ASB No. 2020-928 – Crane received a public reprimand with general publication on September 16, 2022 for violating Rules 7.3(a) [Direct Contact with Prospective Clients] and Rule 8.4(g) [Misconduct], *Alabama Rules of Professional Conduct*. An employee of Crane’s solicited professional employment from a patient receiving treatment for injuries sustained in a motor vehicle accident in the physician’s office. The solicitation that occurred in the physician’s office was memorialized by Crane in a letter to the patient.

9. **PRESIDENT’S REPORT**

President Vance informed the board that he has been actively engaged in outreach on behalf of the Bar. Taking the message of the Bar to the members. He shared the importance of the Drive for Five initiative and the staggering statistics on suicide, addiction, and mental illness among the profession. President Vance, Roman Shaul, and Terri Lovell have shared important information on the initiative, membership resource, and professional responsibility. He reported that the visits have taken him to Andalusia, Eufaula, Dothan, Enterprise, Wetumpka, Selma, Hayneville, and Monroeville. Visits

are scheduled this month for Talladega, Fayette, Jasper, Birmingham, Butler, and Demopolis. President Vance thanked all the Bar Commissioners for hosting the events. President Vance gave a brief overview of the Church v. ASB suit and told the Board that the ASB would keep them informed of any developments.

10. PRESIDENT-ELECT REPORT

Brannon Buck discussed the process that is being developed to annually evaluate the Executive Director and the General Council. He stated that although the policy has not been formalized, that the Executive Committee, along with the Personnel Chair, had completed the evaluation this year of the Executive Director and that the committee would be evaluating the General Counsel in the near future. The procedure would be proposed for the Board's review at the November meeting. President-Elect Buck gave an update on the Bylaws Task Force, shared the names of members working on a draft, and that the Task Force is working to complete their work by the March board meeting.

11. SECRETARY / EXECUTIVE DIRECTOR'S REPORT

Secretary/Executive Director Terri Lovell welcomed the Board back to the Bar building after over two years of hybrid meetings. She informed the commissioners that the 2022-2023 Board of Bar Commissioners Directory had been distributed in hard copy and that an electronic membership is available online and that all Bar Commissioner should have received personalized name tags for meetings and for events where they will be representing the Alabama State Bar. Terri Lovell reported to the board that the annual Consolidated Fee Invoice is open and that the process is running smoothly, including the annual IOLTA certification. She indicated that this would hopefully be the last time they would be issued on the old database and that next year our membership will hopefully see the benefits of the database conversion, along with an electronic membership card. She notified the Board that many of the policy revisions resulting from the work on governance and internal operations will be distributed prior to the November board meeting.

Executive Director Lovell thanked the Board for supporting the Annual Performance Review process. She indicated that any organization and/or leader should have an annual self-assessment and process for setting goals and improvement. She thanked the Board for their support and encouragement over the past year. She indicated that she would continue to work with the Board to set visits in each circuit and find ways that the Bar and the Board can communicate better with our lawyers across the state. She encouraged the commissioners to distribute their Commissioner Newsletter when received.

11. OFFICE OF GENERAL COUNSEL REPORT

At the last BBC meeting, the General Counsel offered final drafts of proposed changes to the Alabama Rules of Disciplinary Procedure concerning the make-up of the Disciplinary Board and Disciplinary Commission. Specifically, the changes to Rules 4,

4.2 & 5 remove the restriction that members of the Disciplinary Board and Disciplinary Commission be current Bar Commissioners and further expands the size of each disciplinary unit. The BBC voted to accept the recommendations and has forwarded the proposals to the Supreme Court of Alabama for its consideration. Assuming the Supreme Court of Alabama accepts the recommendations, the additional spots will most likely be filled by a vote of the BBC in early 2023.

12. FINANCIAL REPORT

Director of Finance Merinda Hall informed the board that the ASB Checking and State Treasury revenues declined at an annual rate of 4% in the 3rd quarter of the fiscal year, as apparent with the dues decrease in effect. However, the upticks noted in the bar exam, pro hac vice, and disciplinary administrative fee categories this year helped ease some of the impacts of reducing the dues. Spending also declined by nearly 3% over the past year, primarily on account of the increased legal fee expenditures last year. Investment balances declined by 3.8% during the fiscal year, in large, due to the weakening economy. However, despite the poor investment performance, the fiscal year is expected to end with a reported operating surplus of approximately \$700,000.

13. FY2024 BUDGET PROPOSAL

The Board of Bar Commissioners voted to approve the FY2024 state budget at 6.9 million, a 2.4% increase over the FY2023 state budget. Some of the highlights of the FY2024 budget will include dues revenues reverting to the \$325 rate, an anticipated increase in personnel costs, alternations in the in-state and out-of-state travel lines for the annual meeting, an increase in rentals and leases for bar exam spacing for special accommodations, and reclassifications in the professional services and grants for leadership forum expenses.

14. STAFF COMPENSATION FY2022-2023

President Vance explained that a total of 4% COLA was recommended for staff compensation for FY2022-23.

THE BOARD OF BAR COMMISSIONERS VOTED TO APPROVE STAFF COMPENSATION FOR FY2022-23 IN THE AMOUNT OF \$3,401,032.

15. ADJOURNMENT

President Vance 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 and the meeting was adjourned at 11:19 a.m.

C.30

Gibson Vance
Alabama State Bar
President, 2022-2023

ATTEST:

Terri B. Lovell

Terri B. Lovell, Secretary
Alabama State Bar