

REPORT OF THE EXECUTIVE DIRECTOR

To The

AMERICAN BAR ASSOCIATION BOARD OF GOVERNORS

Monthly Program and Project Highlights Report

July 2010

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INTRODUCTION

The ABA remained on budget at the end of July. Planning proceeded on projected FY2011 budget reductions, with associated loss of staff and some programming as well as new program efficiencies.

ABA entities produced numerous outstanding professional and public-service programs and products in July, as representative highlights below reflect, while making final preparations for the Annual Meeting. Significant progress was made on high-priority development of the enhanced ABA website and an integrated ABA Publishing presence.

Through a series of Town Hall meetings, extensive staff feedback was developed on possible changes to the employee retirement plans, especially the defined benefit plan. Information was provided to the Board for discussion at the Annual Meeting.

A point of emphasis for staff, heading into and beyond the Annual Meeting, was continued programmatic and member-service excellence. Staff's steady and conscientious overall performance in challenging times has been acknowledged.

MEMBERSHIP

End-of-July overall membership was down, year to year, by 10,964 members, or 2.9 percent – a notable improvement over the reported March-to-March decrease of 4.5 percent, or 15,384 members. Lawyer membership as of the end of July was down 3.0 percent year-to-year.

FY2010 dues revenue collections were slightly ahead of budget and expected to end the fiscal year above budget at \$64.7 million (with \$64 million budgeted). Dues collections for FY2011, begun in May, were at \$27.9 million, compared with \$28 million at this point last year.

The new membership telemarketing campaign generated a robust 3,916 members in July. The campaign connected well with lawyer segments eligible for the new lower dues rate: solos, government and legal services lawyers, and judges.

ADMINISTRATION, GOVERNANCE AND PUBLISHING

PLANNING, POLICY AND GOVERNANCE

The House of Delegates Committee on Credentials conducted its annual review of state bar associations and ABA Sections and Divisions, with three states qualifying for an additional delegate: Connecticut, Nevada and North Carolina.

The Center for Racial and Ethnic Diversity, in collaboration with White & Case LLP, coordinated production of 12 podcasts as part of the promotion of the *Next Steps* Presidential Diversity Report.

As of July 20, revenue from the Expo Travel Isle for the Annual stood at \$260,000, with 27 travel suppliers registered to exhibit. A report by Meeting Planning Services concluded that MPS-contracted hotel rates were on average \$103 lower than comparable rates quoted on Hotels.com.

ABA JOURNAL / PUBLISHING AND CLE

ABA Journal

ABAJournal.com recorded its highest traffic of the year – and third-highest single-month traffic ever – in July, with 1,782,214 page views.

Journal year-to-date 2010 actual revenue was 1 percent below budget in July, and was projected to match budget by year-end. The Journal was projected to spend from \$500,000 to \$600,000 less from general revenue than was budgeted for 2010.

The chambers of Associate Supreme Court Justice Sonia Sotomayor asked for 150 copies of the ABA Journal *U.S. Supreme Court Coloring & Activity Book* for a presentation Justice Sotomayor was to make at an elementary school.

Publishing Services Group

The Group was net positive by \$245,553 in July, with a projected wider positive margin by the end of the fiscal year. CLE was \$136,585 below budgeted revenues through July, but was \$370,528 below budgeted expenses, thus overall net positive.

INFORMATION SYSTEMS

Website Content Management System Assessment: ABA Website re-design requirements were documented, and Ogilvy & Mather was on track for August completion of a website content management system.

Membership Growth Initiative: Email Contact Rules and Infrastructure Plan - An initial draft of new Contact Rules and Processes was presented, and a follow-up workshop was completed.

Publishing Growth Initiative: In this series of projects enabling creation of a digital publishing capability and better integration of ABA Publishing, Workflow Requests for Proposal were readied for distribution, and progress was made on the Electronic Publishing Strategy. Planning of functional integration of Publishing and CLE advanced.

ABA Portal Enhancements: The MyABA website is being enhanced to incorporate a discussion list enabling customers to manage their ListServs. In July, user rules were complete or nearing completion on 75 percent of lists. Tables were moved into production.

PUBLIC SECTOR ADVOCACY AND ABA EXTERNAL COMMUNICATIONS

GOVERNMENTAL AFFAIRS OFFICE

July was a very active month for GAO in many areas. Representative highlights include:

The Federal Trade Commission submitted its appellate brief challenging the ABA's federal district court victory exempting lawyers from the FTC Red Flags Rule. The ABA's response brief was to be filed in August, with amicus briefs due in September. The New York State Bar is submitting an amicus supporting the ABA's position, and 25 additional states are currently committed to signing on as well.

President Obama signed the broad financial reform package (H.R. 4173) containing the Consumer Financial Protection Act, which includes language supported by the ABA and over 21 state and local bars prohibiting the new consumer bureau from exercising any supervisory or enforcement authority over practicing lawyers who represent consumer clients.

GAO met with staff of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security to discuss strategy for House passage of S. 1789, the Fair Sentencing Act of 2010 (addressing crack-cocaine sentencing parity). In late July, the House passed the Fair Sentencing Act.

GAO met with FDIC Vice Chair Gruenberg and the FDIC's chief lobbyist to discuss legislative and regulatory options for ensuring insurance guarantee coverage for IOLTA accounts after December 31 of this year.

In addition, a number of formal governmental advocacy statements on a variety of pressing public policy issues, including ABA presidential letters, were submitted to Congress by GAO on behalf of the ABA.

COMMUNICATIONS

Significant divisional restructuring occurred in July, with concentration of Communications staff in the Washington office. Under the new division director, Communications worked on a new strategic plan and laid the communications groundwork for a seamless transition between ABA Presidents.

Much of July was devoted to preparing for the Annual Meeting, with development of briefing materials on potential hot-button and public-service issues.

MEMBER AFFINITY AND SUBJECT MATTER ENTITIES

PROFESSIONAL SERVICES GROUP

Selected Highlights

The AIDS Coordinating Project represented the ABA at the International AIDS Conference in Vienna, Austria.

The Section of Business Law ran three Committee recruitment campaigns in July. The Section prepared for launch of its new *Business Law Today* web-based publication at the Annual Meeting. Marketing was under way for the highly anticipated Model Stock Purchasing Agreement, 2d ed. (MSPA, 2nd). Pre-order revenue totalled \$65,000. The Section sponsored training in Chicago for legal aid lawyers on “Defending Consumer Debt Collection Matters.” Section staff planned the program and moderated the session as part of a training conference hosted by the National Legal Aid & Defender Association.

The ABA National Child Welfare Resource Center on Legal and Judicial Issues took the lead in planning the July 22-23 Annual State Court Improvement Program meeting.

Then President-Elect Steve Zack engaged multiple entities in a series of conference calls to review current ABA policies related to disaster response. A primary focus was whether new ABA policy was needed to address legal issues likely to arise during disaster response efforts.

The Section of Environment, Energy and Resources celebrated its 25th anniversary of publication of its quarterly magazine *Natural Resources & Environment*.

In conjunction with the Section of Antitrust Law, the Section of International Law submitted comments on China’s State Administration for Industry and Commerce Draft Regulations on the Prohibition of Acts of Monopoly Agreements, of Abuse of Dominant Market Position and Abuse of Administrative Powers.

The Standing Committee on Judicial Independence released its current draft Report and Recommendation on judicial disqualification, to be submitted to the ABA House of Delegates at the 2011 Midyear. The SCJI has launched its Judicial Independence Clearinghouse.

The Commission on Mental Health and Disability Law produced a draft ABA Diversity Plan pertaining to members the Commission’s constituent groups.

The Senior Lawyers Division ran a successful campaign to recruit new members from eligible members of the Section of Business Law. A similar mailing will go to members of the Section of Litigation this fall.

The Section of Taxation is developing an ethics page for its website. A new book by a distinguished Section member, Jasper L. Cummings, was published: *The Supreme Court's Federal Tax Jurisprudence: An Analysis of Fact Finding Methods and Statutory Interpretation from the Court's Tax Opinions, 1801-Present*.

PUBLIC SERVICES GROUP

Center for Professional Responsibility

The Center co-sponsored the *International Legal Ethics Conference IV: The Legal Profession in Times of Turbulence* at the Stanford University School of Law. President Carolyn Lamm delivered the keynote luncheon address. Speakers from 15 countries participated. The Journal of the Professional Lawyer will publish selected conference papers later in the year.

Division for Legal Services

Staff of the Commission on Interest on Lawyers' Trust Accounts worked closely with Governmental Affairs to address a damaging effect of the new Wall Street reform legislation on IOLTA accounts. The new law, effective at the end of the year, would maintain full FDIC insurance of non-interest bearing accounts, but fails to include IOLTA within that definition. The ABA IOLTA Commission and staff are concerned that the omission of IOLTA accounts from the statute will create a serious ethical dilemma for lawyers, if not corrected before the new law becomes effective.

The Standing Committee on Legal Aid and Indigent Defendants evaluated two nominees for the Legal Services Corporation. A resultant ABA report to the Senate, while supporting those nominees, noted that the LSC Board has minimal cultural and racial diversity, and may not fully represent legal services clients, as is required by the LSC enabling statute.

Division for Public Education

Then-President Carolyn Lamm presented the 2010 Silver Gavel Awards to five recipients on July 7 at the National Press Club in Washington.

The Division worked with then-President-Elect Steve Zack on the 2011 Law Day theme, and President-Elect Zack approved: "The Legacy of John Adams: From Boston to Guantanamo".

LEGAL EDUCATION

Through July, the Accreditation Project of the Section of Legal Education and Admissions to the Bar reported expenses below budget by \$291,000, and an operating surplus of nearly \$280,000. A smaller surplus was expected by year-end as significant pending charges were processed.

The Professional Committee of the Conference of Chief Justices, after briefing by the Legal Education director, adopted a resolution endorsing the Uniform Bar Exam and recommending that all state Supreme Courts consider adopting it.

A Section special committee agreed to recommendations for inclusion in a final report to the Section Council on possible ABA approval of law schools located outside the United States.

RULE OF LAW INITIATIVE

Rule of Law Initiative expenditures from ABA General Revenues were projected to be below budget by approximately 2 percent for the year.

ABA ROLI and the Arab Council for Judicial and Legal Studies conducted a judicial monitoring workshop in Aman, Jordan. Participants included four civil society organizations (CSOs) from Palestine, Lebanon, Nigeria and Indonesia. The CSOs will focus their final reports on judicial independence, access to justice and effective management of judicial systems. This pilot program is funded by USAID.

In the Democratic Republic of Congo (DRC), ROLI has helped file 1,083 criminal complaints against alleged perpetrators of gender-violence-related crimes thus far, resulting in 197 rape trials and 157 convictions. ABA ROLI operates five programs on eastern DRC, four of which provide access to justice for gender-based violence survivors. ABA ROLI has provided training to hundreds of lawyers, judges, police officials and prosecutors, as well as *pro bono* counseling to 1,607 GBV survivors.

In Beijing, China, on July 19-21, then-President Carolyn Lamm took part in meetings with the All China Lawyers Association, the Beijing Lawyers Association, the American Chamber of Commerce and other organizations. President Lamm emphasized the benefits to Chinese lawyers of working for American law firms and advocated for the opening of Chinese legal market to American firms. Also in China, ABA ROLI and the Chinese environmental NGO, Friends of Nature, co-hosted a litigation advocacy workshop for grassroots environmental NGOs and lawyers.

Significant ABA ROLI activities also took place in Belize, Guatemala, Nicaragua, Lebanon, Nepal, the Philippines, Tajikistan and Azerbaijan in July.