

**SUMMARY OF ACTION  
AMERICAN BAR ASSOCIATION  
BOARD OF GOVERNORS**

**Hawaii Convention Center  
Honolulu, Hawaii  
August 3 - 4, 2006**

**NEW ABA EXECUTIVE DIRECTOR**

President Michael S. Greco announced to the Board of Governors (Board) that Henry F. White Jr., current President, General Counsel and Secretary of the Institute of International Container Lessors and a retired Rear Admiral in the United States Navy Reserve, has been named Executive Director of the American Bar Association. The appointment is effective on October 1, 2006. President Greco thanked the members of the Executive Director Search Committee, chaired by Robert J. Grey, Jr., for their diligent work during the year-long, national search. He stated that the Search Committee's efforts led to the selection of a leader who has the vision the ABA needs to meet the challenges facing the Association and the legal profession today and in the future.

**1. REPORTS OF OFFICERS AND THE EXECUTIVE DIRECTOR**

The Board received the reports of the President, President-elect, Chair of the House of Delegates, Immediate Past President, Secretary, Treasurer and Executive Director. The minutes of the Board's June 3, 2006, meeting in New Orleans, Louisiana, were approved with one correction, and the minutes of the Board's July 27, 2006, meeting by conference call were approved as presented. The minutes of the Executive Committee's June 14, June 16, and July 24, 2006, meetings were received.

**2. MATTERS FOR DIRECT BOARD ACTION**

**2.1 House Reports**

The actions of the Board on Reports with Recommendations to the House of Delegates are reported in the Board's Transmittal Report to the House of Delegates, #177A. Copies of Report #177A are available from the Division for Policy Administration.

**2.2 Continuation of Board Entities**

The Board approved the continuation of entities created by the Board whose assignments were ongoing, and discontinued those that had completed their tasks.

**2.3 Continuation of Special Committees and Commissions**

The Board approved its recommendations to the House of Delegates regarding the continuation and discontinuation of special committees and commissions.

#### 2.4 Report of the Section of Legal Education and Admissions to the Bar

Dean Steven R. Smith, Chair of the Section of Legal Education and Admissions to the Bar, William R. Rakes, Section Chair-elect, John A. Sebert, Jr., ABA Consultant on Legal Education, and Hulett H. (Bucky) Askew, Consultant-Designate, presented a report on current initiatives of the Section and the Accreditation Project, including a) issues relating to the Section Council's petition for re-recognition as an accrediting agency by the United States Department of Education and the successful conclusion of discussions with the Department of Justice, resulting in the expiration of the Consent Decree as scheduled, on June 27, 2006; b) the completion of a multi-year comprehensive review of the *Standards for Approval of Law Schools* and its Interpretations; c) adoption of revisions to the *ABA Rules of Procedure for Approval of Law Schools*; and d) adoption of revisions to the Annual Questionnaire that each ABA approved law school must complete. Dean Smith thanked President Greco and Executive Director Stein for their invaluable collaboration regarding Consent Decree issues. The Dean and Mr. Rakes also expressed their appreciation to Mr. Sebert, who is resigning as Consultant at the end of the 2005-2006 Association year and welcomed Mr. Askew to his new position. On behalf of the Board, President Greco commended the Section for its excellent work.

#### 2.5 Presentation Regarding the Death Penalty Representation Project

Keith E. Brown, Board of Governors Liaison to the Death Penalty Representation Project (Project), and Project Director Robin Maher presented a report on the Project's work. Created in 1986, the Project's overall mission is to a) raise awareness about the lack of legal representation to death row prisoners, b) address this need by recruiting volunteer lawyers and working toward reform of capital defender systems, and c) offer technical support and training to volunteer lawyers and the capital defender community. Ms. Maher described several of the Project's "success stories" and discussed the Project's effort to revise the *ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (2003)*, which are now widely accepted as the "national standard of care" in defense of a death penalty case. Ms. Maher expressed her appreciation to Governor Brown and members of the Project's Steering Committee for their strong support of the Project and also informed the Board that Governor Pauline Weaver will chair the Project in 2006-2007.

#### 2.6 Commission on Women in the Profession Presentation

Pamela J. Roberts, Chair of the Commission on Women in the Profession, presented a report on the Commission's current projects, including its release of the report *Visible Invisibility: Women of Color in Law Firms*, which discusses the findings of the Women of Color Research Initiative and makes recommendations for future action. The Initiative examined advancement and retention issues among women attorneys of color to answer such questions as why, as of 2005, had 81 percent of female associates of color left their law firms within five years of being hired. In addition, Ms. Roberts mentioned the 2006 Margaret Brent Women Lawyers of Achievement Luncheon and the second

Women in Law Leadership Academy, which was held in Spring 2006 and attracted over 400 attendees. President Greco commended Ms. Roberts and the Commission for their work and noted that the findings of the Women of Color Research Initiative and the recommendations contained in the *Visible Invisibility* report are of paramount significance to the legal profession.

2.7 Request for Election of Directors of the James O. Broadhead Corporation

The Board a) re-elected Karen J. Mathis, Wm. T. Robinson III, and Armando Lasa-Ferrer to the Board of Directors of the James O. Broadhead Corporation (Broadhead) and b) elected William H. Neukom to the Board of Directors of Broadhead.

2.8 Consent Calendar: Report of Board Committee Chairs

The Board adopted the Consent Calendar as presented by the Secretary. Action on all items contained on the Consent Calendar is set forth in items 3 through 5 of this Summary of Action relating to the reports of the Board Committees.

2.15 Fund for Justice and Education

The Board, sitting as the members of the Board of the American Bar Association Fund for Justice and Education (ABA/FJE) a) approved the minutes of the June 3, 2006, meeting of the ABA/FJE Board as presented and b) accepted the ABA/FJE restricted grants and contributions received or awarded through July 3, 2006, and not previously reported, as requested by the Association's Grant Development & Administration Office.

2.18 National Judicial College

The Board, sitting as the Members of the National Judicial College (NJC), heard a presentation from William F. Dressel, President of the NJC. President Dressel discussed briefly several of the NJC's initiatives, including a) special programs for tribal and administrative law judges and b) renewal of the contract that the NJC received from the Department of Justice to conduct a study of the 32 states that have the death penalty.

**3. OPERATIONS AND COMMUNICATIONS COMMITTEE**

**A. MATTERS FOR REVIEW BY THE BOARD**

3.1 Requests for Bylaw Amendments

a. Section of Public Contract Law

The Board approved the request of the Section of Public Contract Law to amend its bylaws to i) reflect the addition of a Second Section Delegate position as authorized by

the House of Delegates at the 2005 Annual Meeting; and ii) reflect that the age limit for the Section's Young Lawyer Council Member is 36 rather than 35. The Section Council approved the proposed amendments on May 20, 2006. Approval of the amendments by the Board is subject to approval by the Section membership at its Annual Business Meeting on August 5, 2006.

b. Section of Real Property, Probate and Trust Law

The Board approved the request of the Section of Real Property, Probate and Trust Law to amend its bylaws, in pertinent part, to i) add the editor of the Section's electronic publication as an *ex officio* member of the Section Council; ii) allow participation in Council meetings via teleconference if approved by the Chair; iii) change the term limits for group chairs and vice chairs; and iv) create three new standing committees (communications, diversity, and corporate sponsorship). Approval of the amendments by the Board is subject to approval by the Section Council at its meeting on August 5, 2006, and also subject to approval by the Section membership at the Annual Section Business Meeting on August 5, 2006.

c. Section of Litigation

The Board approved the request of the Section of Litigation to amend its bylaws to i) change the title of "Director of Divisions" to "Managing Director"; ii) make the Diversity Committee of the Council a permanent Council committee; and iii) eliminate the requirement that the Section's Advisory Committee must maintain a log of all unsolicited information. (The Advisory Committee serves as the nominating committee for each open officer and Council member position to be filled by election.) The Section Council approved the proposed amendments on June 23, 2006. Approval of the amendments by the Board is subject to approval by the Section membership at the Section Annual Business Meeting on August 4, 2006.

3.2 Nominations

a. Standing Committee on Audit

The Board elected Larry C. McDevitt of Asheville, North Carolina, a current member of the Board of Governors, to a three-year term on the Standing Committee on Audit, effective at the conclusion of the 2006 ABA Annual Meeting, as recommended by President-elect Karen J. Mathis. The Board was also informed that President-elect Mathis has re-appointed John A. Krsul, Jr. of Sawyer, Michigan, as Chair of the Audit Committee for a one-year term effective at the conclusion of the 2006 ABA Annual Meeting.

b. Board of Elections

The Board elected Hon. Mary J. Mullarkey, Chief Justice of the Colorado Supreme Court, as Chair of the Board of the Elections and elected of Hon. Gerry Alexander of the Washington State Supreme Court and Hon. Virginia A. Long of the Supreme Court of

New Jersey as members of the Board of Elections, all for one-year terms effective at the conclusion of the 2006 ABA Annual Meeting, as recommended by President-elect Mathis.

c. Friends of the CEELI Institute

The Board elected Mark S. Ellis of London, England, to complete an unexpired term on the Board of Directors of the Friends of the CEELI Institute (Friends Board). Mr. Ellis' term will conclude in August 2008. In addition, the Board elected Henry Horbaczewski to complete an unexpired term that will conclude in August 2007. Further, the Board elected Hon. John M. Walker, Jr. of New Haven, Connecticut, to a three-year term on the Friends Board to begin in August 2006 and conclude in August 2009. All nominees were recommended by the Special Committee on the Central European and Eurasian Law Initiative.

d. A-E-F-C Pension Plan Administration Committee

The Board re-elected Phyllis C. Borzi of Washington, DC, re-elected Susan P. Serota of New York, New York, and elected Stuart M. Lewis of Washington, DC, as ABA representatives to the A-E-F-C Pension Plan Administration Committee, all to serve three-year terms to begin in August 2006 and conclude in August 2009, as recommended by the ABA Chief Financial Officer. In addition, the Board elected Ms. Borzi as Chair of the A-E-F-C Pension Plan Administration Committee.

The Board also elected Oliver C. Mitchell, Jr. of Franklin, Michigan, to fill the vacancy created by the resignation of Ms. Mignon (Dee) Beranek as the National Judicial College's (NJC) representative on the A-E-F-C Pension Plan Administration Committee, as recommended by the NJC Board of Trustees. Mr. Mitchell's term will conclude in August 2007.

e. Museum of Law

As requested by the Museum of Law Board of Directors (Museum Board), the Board elected Hon. Judith M. Billings of Salt Lake City, Utah, and Alan S. Kopit of Cleveland, Ohio, to fill vacancies on the Museum of Law Board of Directors. The terms of Judge Billings and Mr. Kopit will conclude in August 2008. In addition, the Board i) re-elected Daniel G. McIntosh of Los Angeles, California, and Richard J. Podell of Milwaukee, Wisconsin and ii) elected William G. Paul of Oklahoma City, Oklahoma, Jeffrey J. Snell of Sagamore Hills, Ohio, and Sharon C. Stevens of Keizer, Oregon, to the Museum Board of Directors, all five to serve three-year terms to begin in August 2006 and conclude in August 2009, as recommended by the Museum Board.

f. Disciplinary Board /Board of Appeals of the International Criminal Court (Section of International Law)

The Board selected John Wesley Hall of Little Rock, Arkansas, as its candidate, to be presented under the auspices of the International Criminal Bar, for election to the Disciplinary Board and Board of Appeals of the International Criminal Court, as requested by the Section of International Law.

3.3 President-elect Mathis' Requests

a. Request to Revise the Jurisdictional Statement of Commission on Interest on Lawyer Trust Accounts

The Board revised the jurisdictional statement of the Commission on Interest on Lawyer Trust Accounts to increase the membership of the Commission from nine to ten to allow for two co-chairs. The increase in membership of the Commission is effective only for the 2006-2007 Association year. In addition, the Board discontinued the Commission's special advisor position that was approved by the Board in June 2006.

b. Request for Special Advisors

The Board approved special advisor positions to the Africa Law Initiative Council, the Asia Law Initiative Council, the Central European and Eurasian Law Initiative, and the Latin America Law Initiative Council.

c. Request to Amend Jurisdictional Statement of Long Range Planning Committee

The Board amended the jurisdictional statement of the Long Range Planning Committee to add the ABA Treasurer as an *ex officio* member.

3.4 President-elect Mathis' Request to Change Date and Location of Fall 2006 Board of Governors Meeting

The Board approved a change in the date and location of the Fall 2006 Board meeting, from November 9-11, 2006, at the Lodge at Rancho Mirage in Palm Springs, California, to October 25-29, 2006, at The Broadmoor in Colorado Springs, Colorado.

3.5 Standing Committee on Membership and Standing Committee on Pro Bono and Public Service Request for Provisional Dues Waiver Program for Pro Bono Work

The Board approved the request of the Standing Committee on Membership and the Standing Committee on Pro Bono and Public Service for a three-year provisional program that provides a waiver of dues for one year for those ABA members who are retired and/or inactive and/or no longer in the active practice of law, who have completed 500 hours of pro bono legal services work within the previous calendar year.

3.6 Section of Environment, Energy, and Resources Request to Co-sponsor Project with Earth Force and Seek Outside Funding

The Board approved the request of the Section of Environment, Energy, and Resources to co-sponsor "Project GREEN—The Global Rivers Environmental Education Network" with Earth Force, a 501 c 3 not-for-profit organization, during the 2006-2007, 2007-2008, and 2008-2009 Association years. The purpose of "Project GREEN" is to help students understand legal and regulatory policies and practices governing the use of water resources and quality. In addition, the Board approved the Section's request to seek outside funding for "Project GREEN" over and above the \$5,000 maximum annual contribution the Section will make during each of the three years of the project.

3.7 Commission on Law and Aging Request to Revise Jurisdictional Statement

The Board revised the jurisdictional statement of the Commission on Law and Aging to modify the composition criteria for non-lawyer members of the Commission to specify that the phrase "members from other disciplines" as used in the jurisdictional statement includes the disciplines of "medicine", "the social sciences", and "public policy."

3.8 Standing Committee on Meetings and Travel Request for Approval of 2007 Annual Meeting Registration Fees

The Board approved a registration fee structure for the 2007 Annual Meeting, which represents no increase in fees from the 2006 Annual Meeting. In addition, the Board maintained the Program Facility fee structure for CLE programs hosted outside the CLE Centre, the discount for programs held in the Centre, and a speaker registration waiver for the 2007 Annual Meeting.

3.9 Tort Trial and Insurance Practice Section Request to Establish the "Excellence in the Advancement of Animal Law Award"

The Board approved the request of the Tort Trial and Insurance Practice Section to establish the annual "Excellence in the Advancement of Animal Law Award" to recognize a member or a leader of an international, national, regional, state or local animal law committee that has demonstrated commitment and professionalism in the advancement of the humane treatment of animals. The award will be presented annually at the ABA Annual Meeting. The actual award will be a plaque or a small statute with an inscription. In approving the award, the Board understood that the exact monetary value of the plaque has not been determined; however, the cost of the award will be paid for with Section funds and no ABA general revenues are requested or required.

3.10 Standing Committee on Publishing Oversight Request to Revise One of the ABA Graphic Standards

The Board approved the request of the Standing Committee on Publishing Oversight for a revision to Standard 3.2 of the ABA Graphic Standards, which pertains to isolation of the ABA mark when used with other design or identity elements.

3.11 Center for Rule of Law Initiatives Request for Approval for ABA to Enter into Memorandum of Understanding with the Japan Federation of Bar Associations

The Board approved the request of the Center for Rule of Law Initiatives for the ABA to enter into a Memorandum of Understanding, dated June 27, 2006, with the Japan Federation of Bar Associations for the purpose of developing and maintaining a relationship based on friendship and cooperation.

3.12 Request for Approval for ABA to Enter into Memorandum of Understanding with the Association of Lawyers of Russia

The Board approved President Greco's request for the ABA to enter into a Memorandum of Understanding with the Association of Lawyers of Russia, subject to clarification of the obligations of the agreement and clarification of the extent to which any general revenue funds are necessary to fulfill the obligations.

**B. MATTERS OF INDEPENDENT JURISDICTION**

3.15 Requests for Co-Sponsorships

a. Commission on Immigration (*Two Requests*)

i) Working Group on Appointed Counsel: The Operations and Communications Committee approved the request of the Commission on Immigration to participate as a member of a national working group on appointed counsel for immigrants and also to co-sponsor with the American Immigration Law Foundation, the Migration Policy Institute, the law firm Holland & Knight, and the Catholic Legal Immigration Network, Inc. (CLINIC) a meeting of the working group and relevant experts in September 2006 in Washington, DC. The purpose of the meeting is to develop and implement strategies to increase access to appointed counsel for individuals in immigration proceedings.

In approving the request, the Operations Committee understood that a) if the Commission is asked to participate in the development of a publication or the release of a report regarding the activities of the working group, the Commission will obtain all necessary approvals from the Board or Standing Committee on Publishing Oversight prior to publication; b) if the Commission is asked to make a financial contribution to the working group, the contribution will come from the Commission's approved Fiscal Year 2006-2007 budget; and c) no additional ABA general revenue is requested or required.



ii) Immigrant Children Lawyers Network: The Operations and Communications Committee approved the request of the Commission on Immigration to join the Immigrant Children Lawyers Network (Network), a group of legal professionals that assists immigrant children and provides technical assistance. Other members of the Network include the American Immigration Lawyers Association, Legal Services for Children, CLINIC, and the law firm Holland & Knight. In approving the request, the Operations Committee understood that a) if the Commission is asked to participate in the development of a publication or the release of a report in collaboration with the Network, the Commission will obtain all necessary approvals from the Board or Standing Committee on Publishing Oversight prior to publication; b) if the Commission is asked to become a signatory to letters or other statements issued by the Network, the Commission will obtain approval of the House of Delegates or the Board, as appropriate, prior to signing such letters or statements; c) if the Commission is asked to make a financial contribution to the Network, the contribution will come from the Commission's approved Fiscal Year 2006-2007 budget; and d) no additional ABA general revenue is requested or required.

b. Section of Intellectual Property Law

The Operations and Communications Committee approved the request of the Section of Intellectual Property Law to co-sponsor with the World Intellectual Property Organization (WIPO) Coordination Office and the International Association for the Protection of Intellectual Property (AIPPI) a program on international intellectual property law issues on November 3, 2006, in Chicago, Illinois. In approving the request, the Operations Committee understood that i) the Section will participate in the planning and presentation of the program by advertising and promoting the event (including designing the program brochure), handling CLE accreditation if CLE is offered, and providing staff to assist at registration; ii) any expenses would be paid with Section funds; and c) no ABA general revenue is requested or required.

c. Center for Professional Responsibility

The Operations and Communications Committee declined to approve the request of the Center for Professional Responsibility to co-sponsor the 2007 Legal Malpractice and Risk Management Conference with Hinshaw & Culbertson LLP.

d. Judicial Division and Standing Committee on Judicial Independence

The Operations and Communications Committee approved the request of the Judicial Division and the Standing Committee on Judicial Independence to co-sponsor with Justice at Stake (JAS) and the National Center for State Courts the "Justice at Stake Pound Centennial" event on September 21, 2006, at Harvard Law School in Cambridge, Massachusetts. In approving the request, the Operations Committee understood that i) JAS may also ask Boston area law firms to subsidize portions of the event; ii) the Judicial Division will assist in identifying local judges to attend the Centennial; iii) the Division may also contribute a maximum of \$500 from its approved Fiscal Year 2006-2007 budget to pay for the services of a photographer and for the

travel expenses of the Chair and Justice Center Director to attend the event; iv) the Standing Committee may contribute a maximum of \$1,000 from its approved Fiscal Year 2006-2007 budget towards room rental fees; and v) no additional ABA general revenues are requested or required.

3.16 Section of Antitrust Law Request for Approval of Brown Bag Programs Co-sponsored with Certain Outside Entities in 2006-2007

The Operations and Communications Committee approved the request of the Section of Antitrust Law to co-sponsor "Brown Bag" programs with 35 outside entities during the 2006-2007 Association Year. In September 2002, the Operations Committee granted approval for Section "Brown Bag" programs co-sponsored with certain outside entities through August 31, 2003, with the understanding that the Section would need to request renewal of the approval for each subsequent Association year.

**PROGRAM AND PLANNING COMMITTEE**

**SHAPIRO**

**A. MATTERS FOR REVIEW BY THE BOARD**

4.1 Approval of Annual Budget for Fiscal Year 2006-2007

a. – e. See Finance portion of Summary of Action below.

f. Requests for Budget Reconsideration

i. ABA Center for Racial and Ethnic Diversity

The Board approved \$68,000 in funding for a full-time staff director position for the ABA Center for Racial and Ethnic Diversity, effective February 2007 and beyond. The Board's approval is subject to a) review by the Committee on Scope and Correlation of Work of the Center entities and agreement on staffing needs and b) consensus by Center entities on a job description for the full-time staff director.

ii. Center for Professional Responsibility

The Board approved the request of the Center for Professional Responsibility to fund a new part-time ETHICSearch research counsel position with existing and new Center revenues at an estimated annual cost of \$51,600.

4.2 Commission on Racial and Ethnic Diversity in the Profession Request to Establish Program Support Fund

The Board approved the request of the Commission on Racial and Ethnic Diversity in the Profession for the creation and implementation of a Commission Program Support Fund, maintained within the ABA Fund for Justice and Education, for the deposit and maintenance of externally solicited funds garnered specifically to support the

Commission's diversity initiatives and activities over and above the costs directly related to conducting the activities. The Board's approval was with the understanding that, if and when new guidelines for Program Support Funds are developed, the Commission's Program Support Fund will be grandfathered under the new guidelines if those guidelines are more favorable than the current Program Support Fund guidelines.

4.3 Commission on Law and Aging Request for Approval of Externally Funded Project on Facilitating Voting and Other Civic Involvement as People Age

The Commission on Law and Aging requested approval of a project on "Facilitating Voting and Other Civic Involvement as People Age" to be funded by The Borchard Foundation Center on Law and Aging.

This item was withdrawn.

4.4 Joint Commission to Evaluate the Model Code of Judicial Conduct Request for Emergency Funding

The Joint Commission to Evaluate the Model Code of Judicial Conduct requested emergency supplemental funding in the amount of \$30,000 to complete its work and submit a final Report with Recommendations to the House of Delegates at the 2007 ABA Midyear Meeting.

This item was withdrawn.

4.5 Tort Trial and Insurance Practice Section Request to Seek Outside Funding to Support TTIPS Diversity Program

The Board approved the request of the Tort Trial and Insurance Practice Section to solicit and accept 501 c 3 charitable funding to support the TIPS diversity program, "TIPS Leadership Academy."

**B. MATTERS OF INDEPENDENT JURISDICTION**

None for consideration.

**FINANCE COMMITTEE**

**RICHARDSON**

**A. MATTERS FOR REVIEW BY THE BOARD**

4.1 Approval of Fiscal Year 2006-2007 Budgets

a. General Revenue Operating Budget

The Board approved the Fiscal Year 2006-2007 General Revenue Operating Budget in the amount of \$109,658,802.

b. Section Revenue Operating Budget

The Board approved the estimated Fiscal Year 2006-2007 Section Revenue Operating Budget in the amount of \$49,500,000 revenue, \$49,000,000 expenses, generating a surplus of \$500,000.

c. James O. Broadhead Budget

The Board approved the Fiscal Year 2006-2007 James O. Broadhead expense budget in the amount of \$4,285,893.

d. Capital Budget

The Board approved the Fiscal Year 2006-2007 Capital Budget in the amount of \$1,292,298.

e. Transfer to the Dues Warehouse Fund

The Board approved the recommendation to transfer the amount of savings generated by the decrease in pension expense and after other adjustments to the budget preliminarily adopted in June 2006, to the dues Warehouse Fund.

f. See Program and Planning portion of Summary of Action above.

5.1 Standing Committee on Audit Report

a. Ernst & Young Engagement Letter for Fiscal Year 2005-2006

The Board approved the engagement of Ernst & Young to conduct the Fiscal Year 2005-2006 Audit.

b. Revisions to Internal Audit Policy Statement

The Board revised the Internal Audit Policy Statement a) to reflect the adoption of the Five Year Audit Plan, b) to clarify the responsibility of the Director of Internal Audit to the Audit Committee and the role played by the Executive Director in the supervision of the Director of Internal Audit, and c) to establish a new procedure for the development of an annual plan in light of the adoption of the Five Year Audit Plan by the Audit Committee and the Finance Committee.

**B. MATTERS OF INDEPENDENT JURISDICTION**

None for consideration.