

Executive Director's Message

by Karen A. Gould



Our Budget Challenge—Your Responses

IN THE JUNE/JULY EDITION of *Virginia Lawyer*, I asked for feedback from our members on what programs they would cut in order to balance the Virginia State Bar's budget. While only eight members responded, I suspect that their opinions are shared by others. In the following list of programs that were suggested for elimination, I am taking some of my previous descriptions a step farther, to provide more details about these programs, the purposes they serve, their costs, and how they tie into the VSB's mission to regulate and support Virginia lawyers.

Three people recommended that two Young Lawyers Conference (YLC) programs be eliminated: the Celebration of Women and Minorities in the Legal Profession dinner and the Minority Prelaw Conference.

In 2008, the Women and Minorities celebratory dinner did not cost the bar a penny because the YLC covered the cost with sponsor donations. The conference was organized almost entirely by YLC volunteers, with minimal VSB staff assistance.

The two Minority Prelaw Conferences held in 2008 cost \$11,000. Hundreds of volunteer hours were invested by the YLC organizers and speakers. They and their law firms made this investment because they believe in this program with a passion. It is a pipeline project that encourages minority college undergraduates to attend law school, and it has been deemed by the VSB's leadership to be an essential component of the VSB mission. It was through the efforts of Manuel A. Capsalis, the bar's current president, that a third Minority Prelaw Conference has been added to the YLC's schedule for this fiscal year.

Two people questioned whether we should be distributing *Virginia Lawyer* magazine and the YLC's newsletter, *Docket Call*, by e-mail, rather than the current practice of printing hard copies and mailing them to all members. *Virginia Lawyer* is projected to cost \$18,000 per issue in fiscal 2009 to print and mail after advertising revenue is deducted. The magazine is published five times per year, for a total cost of \$90,000.

The VSB's Publications Committee sent out a survey in 2003 to 2,500 VSB members and received just under 400 responses, an almost 17 percent response rate. By a better than seven-to-one margin, the respondents preferred paper over electronic publications. More recent surveys by the Florida and Indiana state bars have indicated that 65 percent of the lawyers in those states still prefer paper over electronic publications. The VSB's Publications Committee met on August 26, 2008, and decided to rely on the Florida and Indiana surveys and thereby save the \$15,000 it would cost to conduct another survey. The committee also decided, based on the 2003 VSB survey and the Florida and Indiana surveys, that the time has not yet come for distribution of the magazine through an electronic format only. People still want to receive *Virginia Lawyer*, the VSB's flagship publication, in its current format.

You will have noticed in the last *Virginia Lawyer Register*—the bar's magazine that disseminates disciplinary opinions, rule changes, and proposals published for comment—that we have already changed the format and substantially reduced its size. Now most of the information is summa-

rized, and lawyers are directed to links on the VSB website to view the complete documents. The \$45,000 these changes will save this year has already been factored into the bar's budget. We plan to start transmitting the *Register* by e-mail in addition to mailing it, to make it easier for our members to click on the links provided to the full disciplinary opinions, rule changes, and proposals. Perhaps in the future it will be deemed appropriate to discontinue the written version of the *Register* if electronic delivery is well-received and used by the bar. Communication of this information is essential to fulfillment of the VSB's mission. Lawyers want to keep abreast of this information, and we want to make it as easy on them as possible.

The YLC's *Docket Call* will cost \$19,500 to print and mail in fiscal 2009. Many of our sections and conferences have decided to publish their newsletters by e-mail, but some have not. I will raise this issue with the leadership of the YLC to ask whether it is necessary to mail a hard copy of the *Docket Call* to their 9,655 members.

Another publication recommended by one member for termination is the *Senior Citizens Handbook*, which is one of the bar's most requested publications. Because the substantive information is provided by members of the Senior Lawyers Conference, the only costs associated with the *Handbook* are printing costs and some mailing costs, which are projected to be \$5,600 this year for one thousand copies. This is a relatively small price tag for a publication that provides invaluable information on

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law, benefits, and programs for Virginia's seniors, and that brings the bar much goodwill from the legislature and the public. While the *Handbook* is posted on the VSB website, seniors are not as likely to have Internet access, and many Virginians request the printed volume each year for the \$4 cost of mailing.

Several people suggested either eliminating or charging for the Pro Bono Conference, held yearly by the VSB's Access to Justice Committee. This past year's program cost \$10,720. The registration fee of \$25 helped cover the cost of materials. Next year, the committee hopes to make materials available online to help reduce costs even further. Many of the people who attend this conference are unpaid or minimally paid lawyers who provide legal services for the poor; charging market rates for this conference is unrealistic.

The program serves several purposes: it is a wonderful event to celebrate and highlight the contributions of lawyers and law students honored for pro bono service; it provides an opportunity for the pro bono, poverty, and public interest law communities to discuss common issues and learn about new developments; and it encourages lawyers to provide pro bono and reduced-fee services in areas of compelling need.

Rule 6.1(a) of the Rules of Professional Conduct charges all lawyers with the responsibility of rendering 2 percent per year of their professional time to pro bono public legal services. Improving access to justice is one leg of the bar's three-legged mission. The importance of the access committee and this conference should not be overlooked. The bar staff fields calls from thousands of people each year desperate for assistance negotiating the legal arena, but too poor to pay for it. Yet the bar devotes a pittance of its dues revenue to support this mission.

The Solo & Small-Firm Practitioner Forum also was recommended to be eliminated or changed from being free to charging admission. This program was instituted at the request of the Supreme Court of Virginia to provide assistance to an often-overlooked but huge segment of the bar's population: lawyers who prac-

tice in the solo and small-firm environment. Last year's program cost \$5,340. The continuing legal education program is geared specifically to topics helpful to lawyers in that practice setting: trust accounting, technology developments and pitfalls, and research tips for the bar's online legal research program, Fastcase. The CLE program is followed by a town hall meeting with Chief Justice Leroy R. Hassell Sr., during which he responds to questions from the audience. The Solo & Small-Firm Practitioner Forum is well-received by the lawyers who attend and is oversubscribed each time.

TWO RESPONDENTS WENT BEYOND THE PROGRAMS listed in the column to suggest that savings could be obtained by reducing the number of prosecutors in the disciplinary system and reducing or eliminating the Mandatory CLE requirements.

We already have plans to cut costs from the disciplinary system by closing our satellite office in Alexandria in 2009. Rather than pay to keep the office up and running, we have given the four attorneys who work there the option of teleworking from their homes with support from Richmond. Two clerical positions will be eliminated. The changes will take place when the Alexandria lease expires on September 30, 2009, and will save approximately \$200,000.

The MCLE requirement is set out in the Rules of the Supreme Court of Virginia, and cutting or eliminating MCLE is not an option.

We carefully evaluate on an ongoing basis the number of staff necessary to carry out the bar's mission and decide whether we need to fill vacant positions. We currently have a hiring freeze in effect on any new positions.

ONE PERSON RECOMMENDED ELIMINATING FASTCASE. The provision of an online legal research program is required by Paragraph 21 of Part 6 of the Rules of the Supreme Court of Virginia.

WE HOPE TO SAVE PUBLISHING COSTS of approximately \$45,000 next year by making the contents of the *Professional Guidelines*¹ available on the website in html format, which will enable the bar's publications staff to keep the rules cur-

rent at all times. Electronic access to the Rules of Professional Conduct and the Rules of the Supreme Court that govern the organization and operation of the VSB will ensure that the most up-to-date version of the rules will always be available to our members.

ONE LAST NOTE: A very important factor in our expenses over which we have little control is receivership expenses incurred when the bar is ordered by a court to close out practices of lawyers due to criminal acts, death, disability, or abandonment. The receivership budget of \$200,000 for FY2007-08 was exceeded by \$313,475 because of the receivership of the practice of Stephen Thomas Conrad, who is alleged to have stolen an estimated \$4 million in money meant for clients. Mr. Conrad has pleaded guilty to one count of mail fraud and will be sentenced on November 14, 2008. The total expenditure for receiverships was \$513,475 for the year ended June 30, 2008. Virginia Code Sections 54.1-3900.01 and 54.1-3936 govern receiverships, and require that receivers be reimbursed "reasonable fees, costs, and expenses." There are no provisions in the statutes for the receivers' fees being limited to a certain amount or percentage. The statutes further provide that the VSB must pay these monies if it has funds available. Next year's budget for receivership expenses has been increased to \$300,000. We should all hope that we do not have another Conrad situation this year to further complicate our budget situation, not to mention the damage that such situations wreak upon the reputation of lawyers.

I APPRECIATE THE INPUT OF THOSE WHO RESPONDED to the last column. As you can see, determining what to cut from our budget is difficult, particularly when the amount needed to be cut is close to \$400,000. The VSB staff—particularly the publications department—has been ingenious and dedicated in devising ways to reduce expenses.

There were many areas in the budget for FY2008-09 in which projected expenditures were reduced, amounting to a reduction in expenses of approxi-

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mately \$523,000. This shows the admirable job the staff has done of achieving economies in our expenses. Despite unavoidable increased expenses in some areas, the FY 2008–09 proposed budget is \$205,000 less than the previous year. Some of the economies were immediately instituted and resulted in savings during FY2007–08. I am pleased to report that a preliminary review of the fiscal year just ended indicates that our expenses were approximately \$600,000 under budget (despite being over budget on receivership expenses by \$313,475), and revenue was almost \$300,000 over budget.

While the staff remains focused on saving money in the bar's daily operations, changes in programs and the direction of the bar's efforts to fulfill its mission have to come from the VSB's voluntary leadership: the officers, the council and the bar's many committees, conferences, and task forces. The voluntary leadership of the bar will have to make tough decisions on what should be cut, or our reserve will be exhausted and the VSB will be forced to seek a dues increase. ■

Endnote:

- 1 The *Professional Guidelines* contains the Rules of Professional Conduct, the Rules of the Supreme Court regarding the organization and operation of the Virginia State Bar, and regulations that govern the Consumer Real Estate Settlement and Protection Act, MCLE, and Licensed Legal Aid societies.