



Special Committee on Strategic Planning

## **Final Report**

November 4, 2011



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## **I. INTRODUCTION**

In July, 2010, President Stephen P. Younger appointed the Special Committee on Strategic Planning, co-chaired by David P. Miranda and Sharon Stern Gerstman. At the initial stage, the Co-chairs, President Younger and President-Elect Vincent E. Doyle, III, engaged Harrison Coerver, a professional facilitator with significant experience and expertise with bar associations, and determined the scope of the committee's work, concentrating on four principal areas: Membership, Technology, Finance and Programming and Services. Each of these subjects became a subcommittee of the Special Committee.

The Special Committee on Strategic Planning met on August 31, 2010. Mr. Coerver facilitated the meeting. The Committee identified the issues within each of the four principal areas to be evaluated. The four subcommittees then gathered the necessary information and began drafting a Briefing Report. The Report was finalized by the Committee and submitted to the Executive Committee at its January 2011 meeting. That briefing report (without its appendices) is attached to this report.

A full discussion of the strategic issues facing the Association was held at an all-day meeting of the Executive Committee, the Special Committee on Strategic Planning, and senior Association staff on March 31, 2011. Mr. Coerver facilitated the meeting.

The briefing report that was distributed to the Executive Committee at its January 2011 meeting provided the basis for the discussion. Building upon the briefing report, the two committees and staff reviewed the principal areas of concern (Membership, Technology, Program Services, and Finance) and discussed numerous possible priorities for the Association to address. The participants identified Membership Value and Technology as the top two priorities. They then spent the remainder of the meeting developing the objectives and strategies for each priority, as well as setting forth the assumptions and rationale that served as the basis for each objective.

Following the meeting, the Special Committee on Strategic Planning prepared an informational report, which sets forth the objectives, strategic assumptions and rationale for each priority as well as the summary of the retreat and feedback received from the participants. Following discussion by the Executive Committee in June 2011, this final Strategic Planning Report is submitted for approval by the Executive Committee, November 2011.





## **II. MEMBERSHIP VALUE**

- A. Objective: Increase the value of the Association to members and prospective members.**

### **Strategies:**

- 1. Expand members-only employment resources, mentoring programs and networking opportunities, to improve the value of Association membership.**

Assumptions & Rationale: The NYSBA value proposition is key to membership recruitment and retention. The 2010-11 Member Satisfaction Survey and Focus Group Reports revealed a high level of interest among members and prospective members in greatly enhanced employment resources, the establishment of mentoring programs (for new attorneys as well as those in mid-career transitions), and expansion of opportunities for networking (in-person events and online).

- 2. Provide more members-only law practice management assistance, technology assistance, more Section-related substantive law updates and more user-friendly and relevant website resources, to improve the value of Association and Section membership to different segments of Association members.**

Assumptions & Rationale: We need to identify the products and services that our members want, using member satisfaction research and other means. Value is defined differently by different member constituencies. Research shows that most members place value on tangible, practical, practice-related support/assistance/information. Membership in Sections leads to greater longevity of Association membership. A recent analysis from the NYSBA database indicated that Association members who were also members of Sections were members of the Association for a significantly longer time than those not in Sections (18.5 v. 11.5 years).

The Association's extensive research provides clear insights into members' and prospective members' thoughts on how value could be improved. Many attorneys want more practical benefits to help them on a daily basis. The most frequently cited examples of what members and prospective members want and need from Association membership include e-filing assistance; forms/practice area guides; frequent, concise practice updates; in-person and electronic help with employment issues and referrals; and CLE on relevant topics.

- 3. Increase targeted marketing and expand communications regarding the tangible, practical benefits and dollar-value of membership, to members, prospective members and their respective law office management, to improve the real, delivered and perceived value of membership.**

Assumptions & Rationale: Member awareness of services and value must be improved. The Association must more effectively educate members and market its products and services to them.

NYSBA member satisfaction research reveals a widespread low level of awareness of NYSBA services among members and, even more so, among non-members and former members. Recent focus group research indicates that the Association has trouble convincing members that the Association provides sufficient value for the money invested in dues. Members tend to think that the Association is an “okay” to “good” value, while non-members or former members see the Association as a “not so good” to “okay” value. Survey findings indicate an erosion of our perceived value between the 2005 and the 2010-11 member satisfaction research studies. The 2010-11 research also indicated that law office partners were becoming more concerned about the cost and value to the law firm of their associates’ membership in bar associations, and were becoming less likely to financially support membership. Improved, targeted communications regarding the value to various constituencies could bolster membership recruitment and retention and dues income.

- 4. For new lawyers as an important constituent member group, develop targeted communications, expanded employment assistance, networking and mentoring programs and special initiatives that help them develop practical skills, to increase the value of membership to this group.**

Assumptions & Rationale: Each year, over 50% of the members who drop their membership are newer attorneys, those admitted within the first two to three years of practice. Research relating to new attorneys that the Association conducted in the fall of 2010 reveals that many of these new attorneys struggle to find employment and desire more opportunities to meet more experienced attorneys and get mentoring support. Targeted communications and expanded employment assistance, combined with the practical benefits of expanded networking opportunities throughout the state and mentoring programs, would demonstrate tangible benefits of membership to this group, which represents the future of the Association.

- 5. Offer specific CLE or other substantive incentives to new and existing members in connection with recruitment of new members and annual membership renewals, to improve the real and perceived value of membership.**

Assumptions & Rationale: At the March 31, 2011 Strategic Planning session, the group observed that “The NYSBA value proposition is key to membership recruitment and retention. Survey findings indicate an erosion of our perceived value. There is strong identification of value with the Bar’s CLE programs.”

The 2010 Member Satisfaction Survey provided clear evidence that members and prospective members appreciate the Association's CLE offerings. At present, less than one-third of our members participate in CLE programs. By providing an incentive to join or renew membership in the Association, such as a free, online MCLE program or free practice forms, with each membership enrollment or annual renewal, the real and delivered value of membership would be enhanced, and the decision to join or renew would be encouraged and directly rewarded. In addition, for those members who don't currently take NYSBA CLE, this would be an excellent opportunity to expose such members (and potential CLE customers) to the high quality and ease of using of NYSBA's educational offerings.

**Performance Measurements:**

1. Membership retention levels
2. New member recruitment results
3. Research findings gauging satisfaction with value
4. Section membership levels
5. Retention levels of new attorneys

- B. Objective: Strengthen the Association's CLE programming and delivery and maintain the Association's market leader position by providing quality, targeted and affordable CLE that is accessible through multiple delivery systems.**

**Strategies:**

**1. Expand CLE delivery through greater use of technology.**

Assumptions & Rationale: Historically, there has been a strong identification of value with the Association's CLE programs. However, the 2010-11 Member Satisfaction research revealed that survey participants were moderately favorable about NYSBA's CLE, but some saw it only as "fair." NYSBA CLE is known for highly qualified speakers, an excellent annual meeting and good program materials. Areas that survey participants cited as needing improvement included accessibility (e.g., it often is difficult for upstate attorneys to attend live programs because of their location) and use of technology (e.g., through use of webcasts, and programs accessible on iPods, iPads and MP3 players). In addition to the cost to register for CLE programs, travel expense was also cited as making NYSBA CLEs more expensive to attend than programs offered by other providers.

Free, 5-10 minute podcasts, developed from CLE programs, could be made available on Section websites to enhance the value of membership and further cross-market Section-sponsored CLE programs. Annual meeting programs could be recorded and made available on the NYSBA website after the annual meeting, at a modest cost for members.

- 2. Increase the differential between the cost for members and non-members to attend Association or Section-sponsored CLE programs and to purchase publications and products.**

Assumptions & Rationale: The 2010-11 Member Satisfaction research results cited ways in which the Association could excel in its delivery of CLE. Members wanted the Association to offer greater member discounts, as it further demonstrated the dollar-value of membership. Integrating higher levels of member discounts on CLE programs and products would be a powerful way to deliver greater value to members.

- 3. Offer a wider range of scheduling options for CLE programs and a greater range of niche topics and programs designed for more experienced attorneys.**

Assumptions & Rationale: The 2010-11 Member Satisfaction research report found that survey participants desired more opportunities for CLE outside the 9 to 5 workday. Evening and weekend programs, and more half-day programs, were cited as ways to encourage more attendance at CLE programs. Participants also expressed a desire for more specialized programming for more experienced attorneys.

**Performance measurements:**

1. CLE attendance and revenue
2. CLE hours consumed by members
3. Association and Section membership retention

- C. Objective: Strengthen the Association's Sections to add benefit to the members.**

**Strategies:**

- 1. Ensure there is appropriate dedicated staff support to Sections by the continued development of the Department of Section Services staffed by employees exclusively supporting Sections and Committees.**

Assumptions and Rationale: Members are retained for longer periods of membership if they are involved in Sections. The Association should provide appropriate levels of staff support in order to assist the Sections. The staff support should consist of staff dedicated to the work of Sections and Committees to increase Sections' efficiency and provide more consistent support to the Sections. The staff support should have sufficient substantive and technological knowledge to meet the staff needs of the Section.

**2. Integrate the CLE provided by the Sections at all meetings with the CLE provided by the CLE department.**

Assumptions and Rationale: There are two licensed providers of CLE within the Association: The CLE department and the meetings department. Currently, Sections develop CLE at their free-standing meetings and the Annual Meeting without coordination with other Sections or with the CLE Department. Additionally, some Sections provide extensive CLE programs for the CLE Department, and some Sections provide no such programming. The CLE providers should be merged or coordinated by one overarching CLE committee of staff and volunteers in order to assure that all current topics are covered and to minimize overlap. Financial arrangements for sharing of CLE revenues should be reexamined.

**3. Improve technology-based delivery of Section materials to members.**

Assumptions and Rationale: Members want timely, tangible, practical, practice-related support and information. In most cases, Sections are the best vehicle for the Association to deliver this support and information. The Association should support enhanced technologies, including websites, listserves, and other electronic formats, to deliver Section information on a timely and convenient basis.

**Performance Measurements:**

1. Section and Association member retention
2. Increased attendance at Section programs
3. Increased Section membership

**III. TECHNOLOGY**

- A. Objective: Use technology to communicate more effectively with existing members, attract and retain new members, and increase the overall value of membership in the Association.**

**Strategies:**

- 1. Implement technologies consistently throughout the Sections and Committees, as well as Association departments.**

Assumptions & Rationale: There are inconsistencies in use of technologies within the Bar Center and across NYSBA Sections and Committees. There are inconsistencies in the level of technological adoption within Sections and Committees, with respect to the content on their web pages, use of listserves, online directories, blogs and other technologies. Increased use and understanding of technology places additional

responsibilities on staff, without necessarily removing existing responsibilities, so this may need to be addressed within the NYSBA organizational structure.

**Performance Measurements:**

1. Website traffic, online sales, membership joins and renewals
2. Email open and click-through rates
3. Social networking (Twitter, Facebook, LinkedIn) followers
4. Use of online MCLE (webinars, video, audio, webcasts)
5. Member survey feedback
6. NYSBA Mobile App creation, download and acceptance
7. Listserve participation
8. Capability of members to personalize their NYSBA experience
9. Utilization of teleconference/video conference resources
10. Percentage of members providing NYSBA with their email address, cell phone number for texting, twitter handle, etc.

**2. Develop current forms of electronic information delivery to bring the Association to members' mobile devices.**

Assumptions & Rationale: Membership use of technology is increasing, and our members expect NYSBA to use technology to deliver services and information. Mobile technology is increasingly important and having NYSBA apps resident on members' mobile devices increases visibility and relevancy of and connection with the Association.

**Performance Measurements:**

1. Develop first mobile app, and infrastructure for new apps.
2. Develop additional mobile apps.
3. Measure use by members by monitoring downloads, usage.

**B. Objective: Increase organizational support for use of technology**

**Strategies:**

- 1. Ensure adequate funding for technology initiatives, including consideration of new and creative funding options.**

Assumptions & Rationale: The NYSBA has been operating within an environment of cost containment over the past several years, which does not always lend itself to implementing new technologies and innovative member services. Increased use of technology will require increased resources in terms of project funding and technical staffing. Options include investing reserves to support technology, increases in staff, and reallocating resources from existing programs.

## **2. Increase Executive Committee Leadership involvement in the strategic technology vision and plan for the Association.**

Assumptions & Rationale: NYSBA will have to make strategic decisions on which technology applications to utilize, support and fund at the highest level. Executive Committee involvement and understanding in these decisions will have to increase. NYSBA decision-making processes have to keep pace with the pace of technological advances, which will affect the budgeting process and spending decisions.

### **Performance Measurements:**

1. There should be regular technology updates and reports to the Executive Committee and direction and feedback from the Executive Committee.
2. Formation of Technology Council, similar to Finance Committee, to help set technology strategy.

## **3. Include a Technology Director on the NYSBA senior management team.**

Assumptions & Rationale: The importance of technology to the other areas of the Strategic Plan – Membership, Programming and Finance – requires that the head technologist at the NYSBA be represented in a peer level position on the Senior Management Team.

### **Performance Measurements:**

1. A Technology Director at a high level within the Association may be necessary to monitor, evaluate, guide decision-making and oversee implementation of new technologies.
2. Create additional staff level position(s) as necessary to support anticipated technical growth areas, such as mobile application/web development.

## **4. Foster an environment that encourages innovation.**

Assumptions & Rationale: An organizational objective to maximize the use of technology works best in an environment that encourages creative innovation and is tolerant of expected and eventual failures. Status quo, traditional policies and procedures, and fear of failure severely inhibit the creative process of innovation. The entire Association staff should be encouraged to reevaluate existing products, services, and procedures in terms of their current relevance to members and efficiency of delivery systems. The Association should encourage use of technology by Sections, Committees and in the delivery of Association services. There should be consideration of an award for use of technology to highlight and encourage innovation in the Association.





Attachment

Briefing Report





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## **Special Committee on Strategic Planning**

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Briefing Report

January 27, 2011

Sharon Stern Gerstman, Co-Chair  
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Manuel A. Romero

David M. Schraver

Grace Sterrett

Stephen P. Younger



**BRIEFING REPORT OF THE SPECIAL COMMITTEE**  
**ON STRATEGIC PLANNING**  
**January 27, 2010**

**INTRODUCTION**

In July, 2010, President Stephen P. Younger appointed the Special Committee on Strategic Planning, chaired by David P. Miranda and Sharon Stern Gerstman. At the initial stage, the co-chairs, President Younger and President-Elect Vincent E. Doyle, III, engaged Harrison Coerver, a professional facilitator with significant experience and expertise with bar associations, and determined the scope of the committee's work, concentrating on four principle areas: Membership, Technology, Finance and Programming and Services. Each of these subjects became the focus of a subcommittee of the Special Committee.

The members of the Special Committee (including the co-chairs, but not including President Younger), representing diverse characteristics and experience within the Association, were divided into the four subcommittees. Co-Chair Miranda chaired the Technology Subcommittee (with members Vincent E. Doyle, III, Paul M. Hassett, Deborah Ann Kaplan, and Hon. Deborah A. Kaplan and staff member John Nicoletta); Co-Chair Gerstman chaired the Programming and Services Subcommittee (with members James Barnes, Peter H. Blessing, Laurie A. Giordano and Eileen D. Millett and staff member Douglas Guevara); Member Claire P. Gutekunst chaired the Membership Subcommittee (with members John S. Marwell, Manuel A. Romero and Grace Sterrett and staff member Pat Wood); and Member David M. Schraever chaired the Finance Subcommittee (with members Seymour W. James, Jr., Joshua M. Pruzansky and Emily Franchina and staff member Kristin O'Brien).

During August, 2010, the subcommittees met by conference call to develop mission statements and to determine the documents and information that were to be provided to the Special Committee prior to its meeting with the facilitator on August 31, 2010. In addition, the facilitator provided an agenda and a memorandum which outlined the process, making clear that the purpose of the meeting on August 31, 2010, was to initiate the drafting of this briefing paper, designed to provide the Association's Executive Committee with a thorough analysis of the major aspects of the Association (the subjects of the four subcommittees), without making any recommendations.

The Special Committee met with the facilitator on August 31, 2010, in New York City and spent the day as a group identifying issues within all four subcommittee and discussing them with respect to: 1) the current situation within the Association; 2) an analysis of Association strengths and weaknesses; 3) the identification of strategic issues; and 4) assumptions and forecasting implications for the Association. The issues identified and analyzed at the August 31, 2010 meeting became the framework for this briefing paper. During Fall, 2010, the subcommittees continued to meet telephonically and electronically to draft each portion of this paper. The subcommittee chairs and the President and President-Elect have reviewed all of the portions of this paper to ensure that the subcommittee work was coordinated appropriately.

The Special Committee and the Executive Committee will meet together with the facilitator on March 31, 2011. This briefing paper (with its appendices) provides the background information and analysis necessary for a full discussion of the strategic issues facing the Association which will be addressed at that meeting. The meeting on March

31, 2011 will culminate in a strategic plan, developed by the Special Committee and the Executive Committee with recommendations in each of the four subject areas.





## **Section 1: Membership**

### **CURRENT STATUS**

As of January 11, 2011, the Association has 77,736 members. This membership position is stable, with membership matching the 2009 year-end position. The Association's members primarily are based in New York State, but an increasing number (24%) come from 113 countries and from every other state in the United States. Approximately 56% of Association members are in solo or small firm practice, in offices of up to nine attorneys. (See Appendix 1-A, "NYSBA Membership Profile Report") The average membership tenure of Association members who are not members of Association Sections is 10.4 years; for members who also are members of Sections, the average tenure increases dramatically, to 18 years. The Association has 25 Sections, 23 of which focus on particular substantive areas of the law and two of which, the Young Lawyers and Senior Lawyers Sections, cut across practice areas. Approximately 48% of Association members also are members of one or more Section.

As a private, non-profit membership organization, the Association enjoys a strong public reputation, and is commonly referred to as "the voice for New York attorneys." Its membership support has been dependable and very solid throughout its history. However, in the 20<sup>th</sup> century, many other bar associations were established, addressing various needs and interests of segments of the New York attorney population, e.g., geographic areas, practice areas, minority attorneys. More recently, a number of for-profit companies recognized the financial opportunities in providing services such as continuing legal education ("CLE") programs to the legal community and, as a result, developed services that increasingly compete with bar association services. Growth in

the number of New York State attorneys has outpaced membership growth in recent years, with Association's representation among in-state attorneys ("market share") dropping from 39% in 2000 to 34% in 2010. The environment in which the Association exists has become increasingly competitive, making Association membership recruitment and retention a greater challenge.

The challenge can be seen not only in membership numbers, but also in the Association's financial resources. The Association relies upon members to contribute membership dues dollars, and educational revenues, to support its operational costs. With increased competition, meeting the economic needs of the organization has become even more difficult in the past decade, requiring new ways of thinking and positioning the Association to ensure future success.

## **STRENGTHS, RESOURCES AND CAPABILITIES**

The Association has many strengths as an organization. It has annual revenues of \$24 million and 115 staff members based in Albany, New York. With its members coming from all over New York State, the United States and 113 countries, attorneys from many geographic areas recognize the value of Association membership. (See Appendix 1-B, "Location of Registered NY Attorneys as of the end of Calendar Year 2010"; "NYSBA Database by County"; "NYSBA Database By Judicial District") Nearly 10,000 new attorneys are admitted to practice in New York State each year. For many years, the Association has had a free, introductory membership for all new attorneys admitted in New York State, which provides exposure to the benefits of membership to

these new attorneys. The Association retains approximately 85% of its members.

However, among new members, this retention rate is only 43%.

The Association has placed a high priority on regularly performing research, to stay informed of trends and interests among its members. In member satisfaction research, the Association is recognized for the strength of its services, with CLE consistently ranking high. A survey of newer attorneys, performed this fall as part of the strategic planning process, found that among respondents, 50% were in law offices with one to 19 attorneys; 80% were 25-35 years of age; and 44% earned less than \$60,000 per year. (See Appendix I-C, "Survey Results & Analysis for 2010 Survey of Newly Admitted Attorneys") These attorneys overwhelmingly (96%) prefer to receive communications by e-mail. It appears that new attorneys prefer using newer technologies such as phone apps, web-based programs, e-mail and social media, some of which the Association has yet to adopt. The Association's CLE was the main membership benefit mentioned, although many respondents had not actually used Association CLE. 70% of the newly-admitted attorneys who responded were "highly likely" or "likely" to renew their membership. As discussed in Section III, below, however, a growing number of members and former members indicate that they find Association membership less relevant and of less value to them.

Through active advocacy from the Committee on Membership in the past decade, recent Association and Section leaders are more aware of and focused on the strategic importance of membership, and the related dues revenues, than they had been in past years. The Membership Committee and staff work very effectively together. Leaders have made membership development and satisfaction a priority. Particularly noteworthy

is the three-year President's Membership Challenge ("Membership Challenge") that then-President Kathryn Grant Madigan instituted in 2007, challenging the Association to increase membership by 5% from January 1, 2008 to January 1, 2011 and each Section to increase its membership by 10% during the same period. Although growth has slowed in the last year, the Association achieved a membership growth of 4.8% over the three-year period. (See Appendix 1-D, "NYSBA and Section Year-End Counts 1990-2010"; "NYSBA Membership Trends 2001-2010") The Association's membership growth and stability during the economic downturn is seen as noteworthy, in contrast to many other national, state and local voluntary bar associations that have experienced declines in membership during that period.

The Membership Challenge also included a goal of increasing law student membership by 30% over three years, in recognition of the fact that students represent the future of the profession and the Association's membership. This was a particularly ambitious strategic goal, as law student membership had declined in nine of the prior 10 years. In the three years of the Membership Challenge, law student membership climbed 31%. A variety of initiatives led to this growth. The Association leadership reached out to law school deans and convinced Albany Law School to purchase memberships for all of its 750 students. The Association also developed more collaborative programming for law students, including a pilot Leadership Initiative which links interested Albany Law School students with Association Sections, committees and task forces to help with research, writing reports and other activities. The Association has the opportunity to expand these connections by enabling more students to work with Sections to gain relevant experience for resume building to make them more attractive to potential

employers, while assisting the Sections in producing materials of value to their members. The Association also has actively participated in on-campus events, including Section information tables with Section representatives. As stronger relationships are built with the schools, more opportunities can be developed. Finally, the Association has increased its electronic outreach and provision of information to students, through a semi-annual online publication, edited by a freelance student editor hired by the Association, which promotes events of interest to students and offers a blog that allows law students to share their experiences with other students.

In recent years, the Association's leadership has been quick to recognize developments in the profession and has responded promptly and effectively to address contemporary needs of its members. For example, recognizing the growing number of cases being handled in mediation and arbitration in New York State and the concomitant growth in the number of attorneys acting as advocates or neutrals in those cases, the Association established a new Dispute Resolution Section in 2008. In recognition of the growing number of members over the age of 55, the Association formed the Senior Lawyers Section in 2009. In response to the "Great Recession," Association's Lawyers in Transition Committee expanded the breadth and scope of its services to provide programs and informational services to lawyers seeking employment after involuntary transitions. Building on recommendations by the Special Committee on Solo and Small Firm Practice (appointed by then-President Bernice Leber in 2008), the Law Practice Management Committee also expanded its services by developing more educational programs and online resources for the large number of members who are in solo and small firm practice.

Through diligent efforts to reduce expenses, the Association has only increased dues four times over the past twenty years. The last general dues increase took place for the 2005 dues year; the Association experienced no significant loss of members as a result. The Association adjusted dues categories and levels for non-resident members (i.e., members who neither live nor work in New York State) in 2007 for the 2008 dues year, which resulted in approximately \$336,000 in additional dues revenues in 2008 and did not result in any significant loss of non-resident members.

The Association's information-rich database and integration with New York attorney records maintained by the New York State Office of Court Administration are valuable tools for marketing the Association to prospective members as well as for selling educational programs and products to existing members. The database resources are also excellent tools for ongoing operational and strategic planning. Limitations of the current database functionality and reporting ability are discussed in "Weaknesses, Problems, Barriers or Threats," below.

Association membership reflects a diversity of attorneys based on age, gender, geographic location and practice areas. Among members who have self-reported this information, approximately 10% are racially or ethnically diverse, 3% are lesbian/gay/bisexual/transgender and 2% have a disability. (See Appendix 1-A) The Association seeks to increase the diversity of its membership. Most of the Association's 25 Sections focus on distinct practice areas and Section membership is seen as a valuable benefit of membership.

## **WEAKNESSES, PROBLEMS, BARRIERS OR THREATS**

The Association faces many challenges due to a number of different factors. The declining market share indicates a lessened representation among attorneys in New York State. The worldwide recession appears to be over, yet many attorneys still struggle to find employment. Competition from other bar organizations and for-profit corporations for members' time and dues and CLE dollars is increasing. The business of membership is extremely hard work, and even maintaining current membership levels proves exceptionally challenging.

Another contributing factor in the challenge to retain members is that many members and former members indicate a lack of awareness of the benefits of Association membership. Despite the perceived value of Section membership, only 48% of Association members belong to any Section. Most new attorneys (83%) do not take advantage of Section membership, despite the introductory offer to join one Section for free during their first year of membership. There is a too-frequently voiced perspective that membership dues are too costly for many attorneys. Time pressures on attorneys and the number of members who do not actively participate in the Association and are "at risk" of dropping their membership are major concerns.

Member satisfaction research conducted in 2005 and more recently in 2010 showed that the Association continues to struggle to convince members that the Association provides sufficient value for the money invested in dues. Research has also indicated that many members are not aware of Association member benefits and, as a result, an increasing number of members appear less likely to renew their memberships in

future years. At the conclusion of the Association renewal cycle for 2010, the number of members not renewing their membership increased from 18% (for 2009) to 19%.

Beginning in the 1990's, the Association's membership began to experience the impact of the competitive marketplace, with numerous other bar associations and for-profit companies moving into the legal market. The average annual increase from December 31, 1990 through December 31, 2000 was 2.3%, compared to annual growth of only 1% from January 1, 2001 to December 31, 2006. From January 1, 2007 to December 31, 2008, the year before and the first year of the President's Membership Challenge, the Association's average annual growth improved to 2.7%. Although the number of members joining increased during the last two years of the Membership Challenge (from January 1, 2009 to December 31, 2010), the number of members choosing not to renew their membership also increased, resulting in a smaller net growth. In 2009, net growth decreased to just 1.4%. In 2010, total membership remained stable (only .5% net growth), but the number of members who did not renew grew from 14% in 2009 (10,413 members) to 15% (11,857 members). (See Appendix 1-D)

In 2008, the economic downturn added to the challenges with which the Association already had been grappling, and dues collections also began to decline in 2009. Sections responded to the Membership Challenge with an increased emphasis on membership recruitment and retention. However, only two of the Sections achieved their Membership Challenge goals; thirteen achieved some gains and/or maintained their position; and eight Sections actually had membership decreases. (See Appendix 1-D, "Association and Section Year-End Counts 1990-2010") The daily battle to prove their



relevance to members is proving much more challenging for both the Association and its Sections.

New attorneys do not maintain their membership in as large numbers as more established attorneys, and this is negatively impacting Association's membership. The Association's market share among attorneys in New York State was 39% in 2000 and 37% in 2006; in 2010, it has decreased to 34%. New attorneys face even greater competition for jobs than in the past, with the lagging economy and an increasing number of attorneys delaying retirement into later years, reducing current employment opportunities. In addition, new attorneys frequently move in their early years as attorneys, and often neglect to inform the Association of their new addresses, making retention an even greater challenge. Telemarketing conducted by the Association during the annual renewal campaigns is an invaluable tool in identifying these "lost" members and finding new addresses for such members, but it is a significant annual expense. New attorneys also desire services and communications to be delivered using more modern technologies, such as phone apps and web-based service, some of which the Association has not yet adopted or is not yet using to their full potential.

The Association has encountered problems with a lack of visibility on law school campuses and lack of access to law students. Few law school faculty members or deans are Association members, and this lack of exposure to the Association has negatively impacted law student membership. Large law firms, primarily in New York City, increasingly do not appear to recognize the value of Association membership, and fewer big law associates have maintained their memberships. Membership among government

attorneys has been extremely low, as most governmental law offices have neither funded nor supported involvement in the Association.

Another challenge affecting the voluntary membership of the Association is the heavy reliance on members to provide important services. Many members donate their time and talents for Association educational programs, publications, lobbying, civic education and many other projects and their contributions have been essential to the success of those projects. With the changing climate at law offices, however, most attorneys are pressured into performing more billable hours and finding more clients. Lifestyles also have changed, with attorneys putting more time into family activities, reducing their time available to spend on bar-related projects. As a result of these pressures, fewer members are willing or able to contribute time to Association projects, which increases the pressure on Association staff members to pick up on projects once performed by members and makes it more difficult to provide the rich array of practice-specific information and updates that members have said they want from the Association and its Sections.

The growing availability of free information on the Web reduces the value of Association's informational resources that are generally accessible only to members. With easy access to legal informational resources online, members and prospective members may be less attracted to Association membership.

As discussed above (in "Strengths, Resources and Capabilities"), the Association has reliable data it can use in marketing its membership and CLE offerings. However, staff, committees and Sections are hampered by the lack of certain database functionality

and reporting abilities. For example, most membership data is not archived, which prevents the Association from making certain historic comparisons. The current database cannot generate reports comparing membership in a given category over time; for example, it cannot produce a report comparing the number of female attorney members in 1990, 2000 and 2010. The system also cannot analyze membership retention levels over the years. Determining how many law student members retained their memberships into their attorney years also is not possible. The inability to generate prior year membership “snapshots” makes it difficult to determine progress over a given period of time. It also is very labor intensive to accurately determine costs versus revenues on many membership campaigns. Finally, in connection with the vast number of membership recruitment projects conducted for the Association and individual Sections, it is also difficult to track ongoing retention, as well as activities of any new members. For example, for minority attorneys who joined a Section in response to a membership initiative – Did they get involved? Join a committee? Did they retain their memberships in future years? Section leaders frequently seek such greater “intelligence” to enable them to gauge effectiveness of their membership efforts, and become frustrated when such evaluation tools are unavailable from the current system.

## **OPPORTUNITIES AND POTENTIALS**

As the oldest and largest voluntary state bar in the nation, the Association is uniquely positioned to face new challenges. With a remarkable breadth and depth of expertise within its worldwide membership, a highly dedicated leadership and a staff of 115, the Association has key resources to leverage for future success. Its wide-ranging resources are unique and in many ways unsurpassed in the bar community. In its 135

year history, the Association has continually evolved to meet the changing needs and interests of its members. It has developed the ability to quickly deliver informational updates; CLE programs are delivered in a variety of formats, live and online; and it uses technology to better connect its members via list serves, webinars and blogs. As demonstrated with the recent establishment of the Senior Lawyer and Dispute Resolution Sections and the expansion of law practice management services, the Association can respond quickly to meet current needs, interests and issues statewide and internationally. To meet the future interests and needs of our members, the Association must continue to monitor member needs and promptly take action to focus resources as warranted.

In looking toward the future, the Association leadership must examine not only the challenges in its environment but also the opportunities and potential for future success. The number of New York-admitted attorneys is increasing. There are now 186,000 attorneys admitted in New York who are not currently members of the Association and, therefore, are potential members. (See Appendix 1-B, “NYSBA Database by Judicial District”) Given the breadth of practice areas, practice settings and geographic distribution, it may be worth developing ways to customize the Association membership experience. For example, perhaps some members may wish to take advantage of Association CLE offerings; others may simply wish to purchase insurance products.

The Association staff has developed several new options for dues payments over the past four years. First, in 2007, the “Automated Installment Program (AIP)” was developed, offering members the ability to pay dues in up to four installments. This

program is now used by 2,400 members. Second, a “Law Office Summary Invoice” was developed in response to law firms asking for one bill for all their attorney members. Over 9,000 members’ invoices now are included in the law office summary invoice process. Finally, staff has worked with the Office of Court Administration to develop a billing process for judges that allows OCA to directly pay judges’ Association dues. This process now covers approximately 90 judges.

These new billing initiatives have been responsive to the needs of certain segments of Association members. For the future, it may also be worth considering other alternative dues approaches, such as discounts for early renewal payments, discounts for law firm billings, multiple-year dues discounts, and alternative dues structures that offer a choice of services for varying dues amounts.

The growing number of attorneys from countries outside the United States may present an opportunity to restructure services for attorneys who need informational, web-based resources. The discouraging job market could increase the interest of New York law schools in collaborating with the Association to obtain resume-building and networking opportunities to enhance their employability. To reduce the Association’s current dependency upon membership dues for 50% of its operating revenues, it may be worth considering new revenue sources, such as through a new, for-profit affiliation (e.g., “Association Services Corp.”), which could pursue non-dues revenue sources for the Association.

## **ASSUMPTIONS AND FORECASTS**

Looking forward, given membership trends, challenges and the economy, some assumptions and forecasts concerning membership can be made for the Association's near-term future.

- Membership will continue to be a priority among Association leadership.
- Membership levels and dues revenues will remain relatively stable in the next several years, but overall membership is at risk of decreasing in subsequent years.
- The Association and Sections will need to continue to make substantial efforts to maintain their membership positions and dues collections at current levels.
- The recent increases in non-resident membership within the Association are likely to continue to outpace the Association's in-state member growth.
- The dues structure will need to be evaluated.
- Greater efforts will be taken to improve the value of membership, based on research findings.
- It will continue to be a challenge to recruit and retain women attorneys, attorneys of color, and those in government and public interest.
- Generational differences and different needs of members will persist and the Association will need to develop service offerings to meet these varied needs.
- Developing marketing and communications, and delivering Association messages in this active media market, will continue to be difficult.
- Employer support for bar association membership dues and participation will decline.
- Given the ever-evolving marketplace and economy, the competition for members will continue to increase.

## **Section 2: Finances**

### **CURRENT STATUS**

The Association's financial condition is sound and stable. Based on audited financial statements for 2005-2009, annual revenues have averaged \$23.5 million (ranging from \$21.8 million in 2005 to \$24.9 million in 2008 [2009 revenues were \$23.6 million]). The audited financial statement for 2009 shows assets of \$32.1 million, liabilities of \$16.5 million and total net assets of \$15.6 million. Between 2005 and 2009, investments averaged \$27.6 million (ranging from \$24 million in 2005 to \$31.2 million in 2007 [and were \$27.7 million as of December 31, 2009]).

For 2011, the budget is balanced and total revenue is budgeted at slightly less than \$24.2 million. As of December 31, 2010, total assets were \$34.8 million, liabilities were \$17.4 million, and total net assets were \$17.4 million. Combined cash and investments, at market value, were \$29.1 million as of December 31. Reserves total approximately \$12.5 million. Included in Appendix 2-A is a summary of the financial statements for the years ending December 31, 2005 through 2010.

Membership dues and CLE revenues are budgeted to provide slightly less than 70% of total revenues for 2010 (dues are about 45% and CLE about 25% of total revenues). Actual results for 2005 -2009 are consistent with these figures. In recognition of the importance of membership dues and CLE revenues, the Finance Committee monitors these revenues closely and recognizes the challenges we face in maintaining or growing these revenues.

The Association does have certain long term liabilities that must be taken into account in planning. As of December 31, 2010, long term liabilities totaled

approximately \$7.0 million (accrued pension costs of \$1.35 million, accrued other post-retirement benefit costs of \$5.16 million, and accrued supplemental plan costs and defined contribution plan costs of \$504 thousand. In addition, as of December 31, 2009, the Association had non-cancelable leases with lease terms in excess of one year (primarily for One Elk Street and the printing facility), the obligations for which totaled approximately \$2.4 million for 2010-2014 (or \$485,000 per year on average). The initial term of the print shop lease runs until 2024. A further explanation and analysis of these long term obligations is included in Appendix 2-B..

The recession and economic conditions have affected the Association's finances and the management of its financial resources, and economic uncertainty must be considered in planning.

Budgeting has been based primarily on recent history and past budgets, not on a strategic plan or clearly articulated priorities. Most of the budget work is done by the Director of Finance. Budgets are prepared based on a historical analysis of each general ledger revenue and expense account. Trends and knowledge of future events are also taken into consideration when the budget is prepared. Input from senior staff is also incorporated into budgeted amounts. The budget process for Association committees begins with the Director of Finance. A draft budget based on historical data is provided to all committee chairs and their staff liaisons in June. Each budget includes a request that the chair and staff liaison carefully consider activities and programming to be provided for in the budget year. Additionally, they are asked to keep spending at or below current levels. A detail worksheet form for each budget line item is to be prepared



and the worksheet is attached in Appendix 2-C. Staff liaisons then review committee budgets and department budgets with the Associate Executive Director and the Executive Director then reviews all budgets with the Associate Executive Director and Director of Finance.

The Section budget process is somewhat different. Section budgets are determined primarily by the Sections, and certain Section budgets and costs (direct and indirect) can be an issue as described below. Each Section chair is asked to prepare a detailed budget for each program that it will hold during the year. These programs should be self sustaining – registration fees should cover the entire cost of the program. Additionally, each Section should provide budget detail for other budgeted items as well. The Section worksheet is included in Appendix 2-C as well. Section budgets should then be approved by the Section Executive Committee and submitted for approval of the Finance Committee in October.

Sections with large membership often have more flexibility and are able to budget expensive executive committee meetings and retreats while still providing a balanced budget. These Sections also tend to have large accumulated surpluses since dues are received from a large number of members. Some accumulated surpluses are in the \$250,000 to \$300,000 range (Appendix 2-D). Additionally, Sections are charged only for direct costs, also contributing to large surpluses. Staff liaison time and travel expenses are charged to Association departments rather than being allocated based on time spent on Section and committee business. For instance, the Section is not allocated expense for the time that a Meetings Department employee spends planning and staffing

an out of state summer meeting. The Finance Committee will be discussing these surpluses at the January meeting.

One area that will require budget support in the future is technology (cost of investing in and supporting new technologies, resolving internal competition for these investments, and determining priorities).

Finally, we have not developed a contingency budget for a “doomsday” scenario, although we have approximately \$10 million in reserves, which is about 7 months of operating expenses.

#### **STRENGTHS, RESOURCES AND CAPABILITIES**

As discussed above, the Association’s financial condition is sound and stable. We have significant investments and reserves and have operated “in the black” in three of the past six years (2004-2009), with an average annual surplus of \$283,000 over the six-year period. We expect a surplus of approximately \$300,000 for 2010 when the books are closed in mid February. Although membership dues and CLE revenues account for 70% of total revenues, we have a number of sources of non-dues revenues for the remaining 30%. Other revenue sources include royalties, advertising, dividend and interest, annual meeting and lawyer referral income. Royalty income is mainly derived from our arrangements with USI and Bank of America MasterCard. As noted below, the USI contract was renewed for five years effective January 1, 2011 and provides for an increase in revenue. The MasterCard royalty agreement expires in March 2011 and will

be renewed for a substantially less guaranteed amount; the revenue budget for this item was dropped from \$425,000 in 2010 to \$287,000 in 2011. Income from other royalty contracts has been flat or somewhat reduced over the past few years. Advertising revenue from the Bar Journal and State Bar News has consistently been in the \$350,000 to \$375,000 range over the past five years. Interest and dividend income has declined substantially since 2007 as prevailing interest rates have remained at less than 1% and corporations have cut back on dividend payments during the recession. Annual meeting attendance has remained flat or declined over the past few years although increases in registration and CLE fees have provided small increases over the last three years. Revenue from the lawyer referrals has been in the \$75,000 range over the last five years as well.

#### **WEAKNESSES, PROBLEMS, BARRIERS OR THREATS**

The Association has significant long term liabilities as discussed above, and there is uncertainty in the general economic outlook and in revenue streams over the next five years. In particular, there is heavy competition for membership dues and CLE revenues. A downturn in membership or CLE revenues would threaten the financial health of the Association.

Budgeting has been historically-based, rather than priority-based; and the Executive Committee has not been meaningfully involved in the budgeting process although it has exercised general oversight. There are Section versus Association issues over budgeting and finances. And accounting methodology and cost allocation issues may mask financial reality as described above.

## **OPPORTUNITIES AND POTENTIALS**

We could review and change our membership dues structure and dues levels; and we may be able to identify new sources of non-dues revenue, including advertising and sponsorship income (although new advertising revenues may be limited because of certain relationships with our royalty affiliates). We could explore administering our insurance programs, now administered by USI Affinity, with whom we have recently (effective January 1, 2011) entered into a five-year contract. The five year contract provides for \$300,000 administrative fee each year. Additionally, we will receive a payment of \$21 per member (77,000 members for 2011) in 2011, \$22 per member in 2012 and 2013 and \$23 per member in 2014 and 2015. Assuming that membership does not decline, we should see increases in this royalty amount over the next five years. We could also engage in a more rigorous evaluation of the costs and benefits of our various activities and programs, and we could consider charging for printed materials to reflect the higher cost of print versus electronic delivery.

## **STRATEGIC ISSUES**

Strategic financial planning will have to be done within the larger context of uncertainty in the general economy and in the legal profession over the next several years. We will be challenged to maintain and grow our membership (and with it, membership dues) and to compete effectively for CLE revenues (which will almost certainly require new and creative ways to package and deliver CLE). The Association will have to consciously determine priorities and resource allocation and take these factors into account in budgeting. Issues include whether a “zero-based budget” should

be developed and whether (and, if so, how) costs should be allocated to non-revenue generating activities. Long term liabilities for retirement and post-retirement plans are being and will continue to be reviewed along with other expenses, including compensation and benefits. Issues between the Sections and the Association will have to be managed, and costs will have to be allocated fairly and appropriately with respect to Sections whose programs and activities burden the resources of the Association. We will have to manage our financial resources prudently while, at the same time, providing value and a satisfying volunteer experience to our members, attracting and retaining high quality staff, and investing in the future of the Association, including significant investments in technology and membership (including retaining and attracting members, and including foreign members).



### **Section 3: Technology**

This Section of the report will cover the following technology issues:

- A. The Association's website has strategic issues and concerns that need to be considered;
- B. Communications to and among members for Association business, including House, Section and Committee use of technology, such as email, social media, blogs, web conferencing and video conferencing;
- C. Issues of concern as the Association transitions from print to digital publications;
- D. Due to the fact that issues related to technology are of significant importance to many varied initiatives and Departments of the Association, the Subcommittee has also addressed the issue of the potential benefits of having a Chief Technology Officer.

#### **A. The Association Web Site, Including Mobile Computing**

##### **CURRENT STATUS**

The Association website is the electronic face of the organization. As it stands, the website offers a tremendous amount of content and user-profile specificity, but could be more user friendly. For instance, the format of different Sections' pages are inconsistent making navigation between different Sections' pages confusing and needlessly difficult. More importantly, the website is not designed to immediately focus the user's attention to the Association's most popular services. In addition, although the

website is rich with content, relatively few people know about its many offerings and take advantage of them. In short, the website is insufficiently user-friendly. The Association website Competitive Analysis, prepared internally within the Association in 2009 is attached as **Appendix “3A”**.

The website’s search capabilities, while adequate, can be improved with conceptual searches. In addition, at the moment the Association’s membership has no incentive to check the website each day, each week, or even each month. The Association has taken steps to accommodate mobile computers by offering mobile versions of e-newsletters and e-mail messages to target a growing set of mobile computers. E-commerce through the website also provides a significant vehicle for a commercial revenue stream to the Association, estimated at \$4.5 million in 2010 for dues, CLE, and other programming and is increasing at a rate of 15% per year.

## **SITUATION ANALYSIS AND STRATEGIC ISSUES**

The Association enjoys a very large membership and is a leading provider of services to attorneys and other legal professionals in New York State. An important strength is that the Association’s membership has adopted computer and Internet technologies, albeit to varying degrees, and is largely comfortable with on-line and electronic resources. Further the Association’s qualified staff serves as an excellent resource and the Association is fortunate to have the support of the Association leadership.

The most important strategic issues will be those that affect the Association’s ability to meet the needs of its membership and shape the image of the Association. These should involve enhancing its web design to make it more user-friendly and hence



usable, capturing user profile data, and offering products in a paperless form, and also for sale. They may also involve examining analytical figures regarding website usage, and aspiring to specific statistical goals.

Moving forward, funding and staff resources will be key to shaping and maintaining the Association's image and the way it meets the demands of its membership. Because the website is the easiest and most popular way for the Association's membership – potential and actual – to obtain information about the organization, it should be a priority to the Association and this priority should be reflected in the budget. The Association's success in this regard may be monitored concretely through analysis of the number of visits to the site over time, and related information about its usage. A related strategic issue will be striking the proper balance between ease of access to the website versus security concerns. The Association's Electronic Communications Committee has recommended retention of a website usability consultant to assist. See **Appendix "3B"**.

Furthermore, the Association will need to make sure it keeps abreast of its membership's demographics and preferences with respect to content and services. The Association needs to make sure it stays in touch with its membership's expectations so that it can meet them. This will not merely maintain the Association's relevance in the legal field, but also will enable the Association to evaluate various potential marketing opportunities. Lastly, because technology evolves so rapidly it will be essential to remain attentive to new developments and trends in technology and the Internet and to make the appropriate adjustments.

## **ASSUMPTIONS AND FORECASTS**

The Association's members expect that materials and programs be available online. This means the Association can expect a substantial reduction in demand for certain types of print media in the coming years. In addition, the increasing prevalence of personalized websites with login screens suggests that the Association's membership will increasingly expect the Association to offer them personalized services, too. For example, they will expect the Association to send them only targeted mailings that pertain to their individual practices and areas of interest. Concomitantly, technology may also enhance the Association's ability to understand its own membership's interests and preferences through collecting their personal settings and monitoring their use of the site.

The Association may safely assume that the average technology literacy of the profession will increase. Given the trajectory in the past five years, it can also assume there will be rapid mobile technology development in the near future. Naturally, there will be advances in technology that cannot be anticipated today, so the Association will have to remain flexible and current.

It is an assumption that with our nation's increasing reliance on the Internet and electronically-delivered content, the Association's relevance and image will increasingly be shaped by technology, and substantial investments in technology will be required.

As noted above, the most important strategic website and mobile computing issues for the Association should include enhancing the Association's web design, capturing user profile data, and offering informative content in a paperless, user-friendly way.

In the future, the Association will need to focus on providing on-demand video and audio content for its membership through the Association website. This will make the Association a primary provider of useful programming and enhance the Association's relevance in the legal profession. A library of CLE programs, for example, will enable users to view and even rate programs of interest. This sort of service could add significant value to Association membership at relatively low cost to the Association.

Applications for popular media devices like the iPhone and BlackBerry will enhance the Association's caché and relevance. These applications may be limited, but their availability will enable members to access information on the go and enhance the Association's presence in its membership's daily lives.

Because the Association expects a decrease in demand of certain printed products, it should focus on enhancing its capacity to offer e-books and e-publications, available for download from the Association website. In addition, the Association should consider making electronic media available for viewing on electronic readers such as the Amazon Kindle, Apple's iPad (which has a Kindle application), or a future equivalent. This provides a paperless way for members to bring their own materials to CLE programs on their mobile computers. Kindles and iPads are already being used by some attendees at Section, Committee and House meetings and efforts should be made to facilitate the use of Association materials in such formats.

Importantly, the Association needs to focus on re-designing its website, enhancing its search capabilities, and capturing user profile data to facilitate personalized webpage views and targeted emails from the Association. The Association has already made great strides in all three of these areas, and these should continue to be priorities. With respect

to website design, the Electronic Communications Committee is already considering a proposal from a usability testing consultant to examine the actual site usage by users from a variety of constituencies and will make design and navigation recommendations based on user feedback. Attached as Exhibit 3-B, is the Electronic Communications Committee's recommendation. Redesign of the website appearance is dependent on this recommendation, and without professional assistance, redesigning the website may be difficult and ineffective. With respect to improving the searching capabilities on the website, this ought to include conceptual searching, which in addition to delivering results based on actual search terms, also suggests results that are conceptually related, even if they do not include the search terms. Finally, users should be encouraged to personalize their profile upon registering a new user ID on the website, and the available preference options should be periodically re-evaluated and updated.

**B. Communications to and Among Members for Association Business:  
House, Section and Committee use of Technology, including  
email, social media blogs, web conferencing and video conferencing**

**CURRENT STATUS**

Social media requires use of public social media outlets via the internet for exchange of information such as Facebook, Myspace, Twitter and LinkedIn; technology tools such as email, blogs, and listserves are controlled by the Association and its members. A thorough memorandum regarding the use of social media by the legal profession is annexed as **Appendix "3C"**. The Association has a presence on Facebook and LinkedIn, and President Stephen Younger proclaimed himself the "first Facebook

President” with more than 400 “friends” that follow his entries. The Association and its Sections and Committees use a variety of internal blogs and listserves to conduct Association business. A blog is like an electronic bulletin board where postings can be made and read by all members of a group. A listserve is an email list where every entry sent in email form is sent to every member of a group. There are currently 37 active Association blogs, see ([www.nysba.org/blogs](http://www.nysba.org/blogs)) and 254 email listserves used mostly by Sections and Committees of the Association. (See [www.nysba.org/source/eforum/index.cfm](http://www.nysba.org/source/eforum/index.cfm)). Access to these sources of information can be obtained via the Association website. Our analytical studies show member usage varying from about 4,000 users to 10,000 users per month.

The Association has also implemented an email and newsletter management system that delivers targeted information to all members of the Association with the email, or information targeted directly to various Section or Committee members. The Association sends out approximately one million emails a month to Association members regarding Association business, and has the ability to provide mobile friendly versions of regular emails and electronic newsletters as appropriate. Although video conferencing, webcasting, and webinars have been used by the CLE Department for a variety of substantive presentations, this technology is not currently used by the Association for communications regarding Association business by Sections and Committees. Currently the Association does not have internal video conferencing abilities, but rather contracts with a third party to conduct video conferencing for specific CLE programs.

## **ANALYSIS AND STRATEGIC ISSUES**

Although the Association has technology in place for communication by and among members, its use is not consistent throughout the Association. Certain Sections and Committees have used this technology effectively and their members have come to rely on the information exchanged in the daily course of conducting Association business in their law practice. Other Sections and Committees have not used the technology at all. The pockets of use appear centered on Sections and Committees with leadership that understands and encourages the use of these technologies. Although we have staff with expertise in using these technologies, there is an issue raised as to the extent to which staffing is sufficient and the extent to which these delivery systems are understood by all staff and by Section and Committee leaders. Issues have been raised as to whether all Section / Committee staff liaisons are properly trained and providing full support to Section and Committee leaders in using these technologies. Issues have also been raised as to the extent to which the Association is staying current with technological developments in making appropriate internal transitions so that technology can be used throughout the Association, rather than isolated pockets of use based upon requests of tech savvy Section and Committee leaders. Technologies are advancing to make the exchange of information among groups easier to use and more comprehensive. With respect to video conferencing, this has and continues to be widely and inexpensively used by law firms and lawyers in general, however, the Association has been reluctant to integrate video conferencing into its everyday activities. Although there would be modest start-up costs to have video conferencing capabilities at the Bar Center, there would be savings to the Association in not having to rent equipment on a per usage basis,

as well as the additional advantage of encouraging use by Section and Committees without having to incur additional costs.

## **ASSUMPTIONS AND FORECASTS**

The Association and its members are increasingly using technology to conduct Association business. There is an increase in use of social media and mobile devices by Association members and it is expected that the rapid increase in the use of social media and mobile devices will continue. It is also expected that Association members will require the increased ability to exchange information with respect to Association business via mobile devices as well as on computers. The integration and use of technology to connect members of Sections and Committees easily will increase the ability of Association members to be involved and provide increased value to members. As social media and other technologies become more prevalent, the Association will need to standardize, to the extent possible, use for Association business. The Association should consider measures to encourage the Association to progress with electronic exchange of information, to encourage and facilitate staff understanding of technology, and to develop best practices documents to provide to new leaders of Sections and committees that may be at different levels of technological sophistication. It is expected that in upcoming years that the use of video conferencing will increase among Association members and the failure of the Association to easily conduct and facilitate video conferencing by and between members will put the Association behind the technological curve. It is expected that the level of adoption of technology by members will remain different among members. The Association needs to remain ahead of the curve so that a technology

infrastructure and staff support are in place within the Association to assist technological innovators in the Association. To encourage cutting edge uses of technology, consideration should be given to creation of an annual award to the Section, Committee or member exhibiting the best use of technology for Association business.

### **C. Managing Transition from Print to Digital Publications**

#### **CURRENT STATUS**

Association staff members have been planning for some time and have addressed and, in some cases, answered the major issues described in our analysis. All of our reference books are already available online through Loislaw although the CLE course books are not. Members may buy only the Association Library, not all of the Loislaw publications, and the Association is working towards making individual volumes available for purchase.

We have already removed all tape materials from our library and our publishing format is almost completely digital. In addition to reference books, the printer layout for other materials is already in portable document format. The *Journal* is available online now and the *Bar News* is available online to overseas subscribers. A few selections such as Section newsletters are already published electronically and we are planning to convert all of the remaining Section publications.

The Association's printing facility has recently moved into a new building and is now in the second year of 15 year lease with two 5 year lease extension options. In addition, we have recently purchased a four color printer and there are currently 12 employees at the new facility. Attached is a memorandum to Keith Soressi, Associate



Executive Director, from Roger Buchanan, Senior Director overseeing the print shop and graphics department, which describes in considerable detail Association's obligations for the print shop. See **Appendix "3D"**.

## **STRATEGIC ISSUES**

The process of conversion requires a consistent emphasis over several years, spanning several presidencies and changes in the membership of the Executive Committee and House of Delegates. Simultaneously, rapid changes make it difficult to keep pace with the growth of technology and the increasing cost of both hardware and software is a substantial barrier. It is likely that the complete transition from print format to digital will not occur within the time frame of this strategic planning effort.

At the present time, it is impossible to select a single format compatible with all e-Reader hardware (Kindle, Nook, Sony, Blackberry, Android, etc.). We must continue closely to monitor progress in the area, working towards a goal that some day all of our products will be available to those who no longer want the print format. Until now, the availability of digital publications has not been marketed particularly well. We currently have more digital publications than many members are aware of and we need to increase member awareness. Although assuring that the Association's digital publications remain "platform independent" is an important objective, there is no assurance that rapidly advancing technology will allow us to achieve this goal.

A serious drawback to electronic transmission of many materials is the lack of identification with these products as a member benefit. Identification with the Association tends to blur when Section newsletters and publications such as *The State*

*Bar Journal* are read online rather than in print format. Identification with the Association reminds the reader of the value of Association membership and is a very tangible value of paper as opposed to digital materials.

The lack of complete acceptance on the part of the membership may remain a substantial impediment to complete universal digitization by the Association.

#### **ASSUMPTIONS, FORECASTS**

1. The goal of digitization of all our products will remain a significant objective of the Association;
2. The change in the demographic composition of the membership will result in increased pressure to achieve digitization;
3. The conversion process from print to digital will be impeded by the necessity to retain printing capability for some time, and perhaps indefinitely; and
4. The leadership of the Association will continue to make digitization of our products a priority and will continue to authorize sufficient financial and personnel support to achieve the goal.

We are fortunate that we have a talented staff who have been studying the problem for some time and will continue to advance our capabilities. Obviously, the constant growth of technology and the hardware that drives technological change are major impediments to our effort. The equipment we purchase today may not be current tomorrow and the increasing hardware costs will be a significant burden on our budget.

## **D. The Association's Need for a Chief Technology Officer**

### **CURRENT STATUS**

The Association currently has two senior directors responsible for departments that have substantial use of technology, Doug Guevara, Senior Director for Continuing Legal Education, and Richard Martin, Senior Director for Marketing and Information Services. The Association also has John Nicoletta as Director of Management Information Services and Barbara Beauchamp, Editor of the website, as well as a network support specialist, database administrator, data systems and telecommunications manager, and records supervisor. The Association has an Electronic Communications Committee, which provides guidance to the Association about the use of electronic communications by and between the Association, and its Sections, committees and members. Currently the Association is increasingly relying on technology to deliver information services to members. It is estimated that the Association sends approximately one million emails per month to members.

### **ANALYSIS AND STRATEGIC ISSUES**

The acceptance and use of new technology is sometimes slow and can be inconsistent within the Association. There is no single person such as a Chief Technology Officer (CTO) looking at overall technology strategies for the Association. A CTO will often work closely with senior management throughout an organization for the purposes of developing and upgrading technology for the benefit of the organization, keeping a close eye on changing technological trends and maximizing the web presence of an organization. A CTO is responsible for monitoring changing technological trends

and insuring that staff of an organization is educated and trained in the use of new technologies. A CTO is also responsible for discussing the technology strategy of an organization, explaining it to organization stakeholders, and being an internal force for technological progress within an Association. It is increasingly common for an organization of our size with more than 100 employees and more than \$20 Million in revenues, to have a CTO.

#### **ASSUMPTIONS AND FORECASTS**

We can assume that the continued use of technology will be increasingly relevant to our members. In upcoming years the Association will be at a disadvantage if it does not have an internal director with responsibility for guiding a comprehensive technology plan for the Association and conducting regular meetings with Association senior directors and the Association's leadership. It will be important for the Association to remain on the cutting edge of technology in order to efficiently and effectively deliver information and services to members and to regularly report to Association leadership on technology issues.

## **Section 4: Programming and Services**

### **CURRENT STATUS**

#### **1. Formal CLE**

Association provides a considerable amount of formal CLE. During 2009, there were 319 live classroom-format programs offered in New York state, and 7 offered outside New York state. In addition, there were 3 teleconferences, 2, videoconferences, 5 webconferences, and 18 video replays. Finally, 155 online programs, 443 audio programs and 62 video programs were also available for purchase. The majority of the CLE programming originates with the Sections, who continue to develop programming in their respective practice areas for co-sponsorship with the CLE department. However, some Sections do not co-sponsor programs with the CLE department. Additionally, staff members of the CLE department and members of the CLE committee have subject matter responsibilities, and may develop or encourage programs.

There are two accredited CLE providers within the Association. The Meetings Department is the provider for the Annual Meeting, stand-alone Section meetings and CLE programs presented as an addition to regularly scheduled Committee meetings. The CLE Department is the provider for all other CLE. The fees collected for programs sponsored by the Meetings Department are treated differently from fees collected for programs sponsored by the CLE Department. Fees collected for CLE at stand alone Section meetings are returned, after expenses, to the Sections. Fees collected for CLE accredited by the CLE department, after expenses, are returned to the Association to cover general costs (which include some Section and Committee costs), and are not shared with the Sections, even where the Sections provide the subject matter, the written

materials and the speakers. This has created some tension between the Sections and the CLE department.

Because there are some Sections that do not co-sponsor CLE, there may be subject matters which are under-programmed, although the CLE Department has developed programs outside of the Sections in various practice areas. Additionally, when multiple Sections work on a combination of free-standing meetings and co-sponsored CLE, there may be matters which are over-programmed. The CLE staff and the CLE Committee monitors CLE put on by the CLE department, but they cannot influence the CLE programming put on by the Sections in stand alone meetings.

Surveys indicate that members value Association CLE. Somewhat contradictorily, however, fewer than 30% actually partake of it. Participants agree that the content of the programming and the speakers are of high quality. Despite economic challenges and competition from over 400 other accredited providers, audience attendance from 2007 to 2009 increased at a steady rate.

## **2. Other Dissemination of Current Information**

There are over 70 Association journals and newsletters put out by Sections and committees, providing in-depth analysis of legal issues, primarily for the benefit of their members. Additionally, there are approximately 70 reference books and supplements in print. Sections and Committees also disseminate information to their members through listserves, blogs, and other electronic material such as E-news. Many members rely on such electronic information on cutting edge topics such as new legislation or new cases. On the other hand, members in some specialized areas (e.g. Tax) have available to them

and rely on commercial providers of daily (or more frequent) updates of federal, state, local and foreign developments that also provide high quality analysis within days or weeks of the developments. Finally, the Association provides LoisLaw to all its members, though it is not valued as highly as other electronic information. It is clear that different members in different demographic or subject matter categories value different delivery methods and styles.

### **3. Advocacy**

There are several categories of advocacy that occur within the Association. First, there are the broad issues that the Association has taken a policy position on. This category includes the Association's annual legislative priorities, managed directly by the Association leadership. In 2002 the House of Delegates established policy that a few issues should be the focal point of the Association's advocacy efforts each year. The short list of priorities is established after consideration of several factors, including the economic climate, the political environment, the likelihood of success, and the goals of the President and President-Elect. The "priority category" was established so that the Association leadership would marshal members, staff and resources to efficiently and effectively deliver a well-defined message to policymakers. In addition to its state legislative priority program, in 2009 the Association expanded its advocacy program at the federal level by creating the standing Committee on Federal Legislative Priorities to enhance Association's relationship with New York's Congressional Delegation and to assist each year in development of a list of federal legislative priorities to be the focus of advocacy activity by Association leaders in Washington, D. C.

Second, there are issues of extreme import to Sections and committees, who have sought Association policy, and advocate in accordance with the policy to the legislature or other appropriate body. This category includes affirmative legislative proposals (ALPs) -- legislation that is approved by the Executive Committee or the House of Delegates and becomes part of the Association's legislative program. These ALPs are promoted on behalf of the Association, but on many issues Association leaders and staff defer to substantive expertise of the Sections and committees.

Finally, there are issues of import to Sections and committees, who do not seek Association policy, but issue reports commenting on legislation, administrative action or the need to address a legal problem. The issues in the second and third categories often are referred to as "technical issues" that involve substantive law and procedure, and may be of great interest to members who practice in the subject area.

The public and membership is generally unaware of the advocacy in the second and third categories, and may be limitedly aware of the advocacy even in the first category. For those members who actually participate, advocacy is a valuable member benefit.

#### **4. Other Section and Committee Activity**

Generally activities within the Section may give members information on topics to assist in their practice areas and valuable networking opportunities. These opportunities continue to be valuable to the fraction of the membership active within a Section or committee.



## **STRENGTHS, RESOURCES AND CAPABILITIES**

The CLE programming has many strengths. The participants view the quality as high, and there is no shortage of member experts who are willing to provide their knowledge and skill to others as faculty members of the programs. The CLE Department has the ability to produce CLE in virtually any manner from live programming and webcasts/webinars, to self-paced audio and video programs offered in a variety of media. The Association has accumulated a large data base of members and non-members to whom advertisements of programs is directed, though there is much more that can be done here. We have a new, energetic and innovative CLE director who is willing to work with all of the stakeholders in order to produce the best CLE possible.

The Sections and other Association entities continue to produce high quality publications. Many listserves are vibrant and extremely active and are valued considerably by their participants.

Advocacy is successful. The Association continues to have success in all three areas of advocacy: The 2009-2010 legislative season produced a number of successes including a number of the Association's legislative priorities. Some entities within the Association are incredibly well-respected on a state and national level, resulting in ability to influence change as a neutral expert.

Almost all of the programming is produced by volunteer members. Whether it is the chance to do something beyond one's normal practice or the chance to increase one's visibility in the community that motivates members to donate hundreds of hours, the Association is greatly benefitted by this contribution.

## **WEAKNESSES, PROBLEMS, BARRIERS OR THREATS**

### **1. CLE and related programming**

The current economic conditions may present some problems regarding programming. It is likely that attorneys will seek to keep CLE expenses low, and may turn to lower priced alternatives. Competition from other providers is likely to increase as all providers will be vying for limited CLE dollars.

There is a large diversity of member desires for programming; this presents a challenge to the various Association entities to deliver as many alternatives as possible, but to do so in an organized fashion, rather than the patchwork of current choices. This requires a concerted effort by all of the entities. Tensions among internal Associations departments make this difficult. There is a particular strain between the Sections and the other Association entities, particularly the CLE department, over funding and autonomy.

Younger attorneys expect and desire programming in electronic format. Younger attorneys may be disproportionately affected by the weak economy, desiring program in inexpensive (or free) format, although currently, the CLE Department does offer tuition assistance for those with proven economic need. Finally, out of state attorneys desire programming in formats which allow remote access.

While the Association maintains a database of members and non-members, gathering reliable information on non-members poses a challenge. As a result, attempts to attract large numbers of non-members through CLE and other programming may meet with difficulty.

## **2. Advocacy**

Developing and maintaining a successful legislative advocacy program is a challenging task for many Sections and committees. This may be due to a number of factors including the, frequent rotation of leaders and members in and out of office. The cyclical nature of the legislative branch of government poses a significant challenge for Association entities and their volunteer leaders. The “cycle”-- or schedule --by which legislative bodies operate often differs from the schedules and agendas of Sections and committees, thereby hindering timely participation in the legislative process. Also, the political environment of government may drive the legislative process and impact development of public policy, regardless the merits of a particular argument. Steady, efficient, and effective advocacy of the Association’s programs and priorities requires direct and consistent management and commitment by the Association’s officers and Section and committee officers, and not all Sections and Committees who might benefit from advocacy have made this commitment.. As a result, advocacy by Sections and Committees is driven by the leaders of those entities and there may be "holes" in our advocacy on technical issues due to the inactivity by some Sections and Committees.

The Association does not have a Political Action Committee (PAC). In the intensely competitive and partisan political environment of modern legislative bodies, many advocacy organizations do use PACs. The Association has on two previous occasions considered establishing a PAC. Most recently, in 2002, the House of Delegates concluded that a PAC was not necessary and that Association’s legislative advocacy activity could be enhanced by other means.

There is insufficient interaction between the entities regarding advocacy and other projects in which there are overlapping interests. There is particularly low awareness of the advocacy done by the entities and other programming the entities engage in. It should also be noted that advocacy on larger issues is often fraught with some controversy, and while for many members advocacy plays a positive role, there may also be a segment of the membership who think that advocacy should proceed slowly and cautiously.

## **OPPORTUNITIES AND POTENTIALS**

Given the diversity of member interests, it is important to attempt to capture member interests, customize CLE and other programming and pursue targeting information to be sent to members. The best source of the information is the Association entities that members have the closest relationship to. Systems should be evolved in order to gather the information either electronically or through a network of members acting as ombudsmen or other representatives of various interest and demographic groups.

Changes to the profession brought about by the economy, globalization, and mobility can be capitalized upon. Unemployment and underemployment of lawyers means that lawyers will be looking for programming that is inexpensive or free, that is helpful to their practice and that is helpful to their increased employment. The Association can fill a niche with training and resources for new attorneys, solos and small firms.

Globalization means a growing number of non-resident attorneys who are more likely to desire programming on national and international topics. Efforts should be made to market more programming to non-residents, regardless of whether they are members

of the Association or even the New York bar. In order to do so, some effort and resources are necessary in order to expand the non-member database. With respect to programming on national and international topics, efforts should be made to market on a national level.

Mobility means that lawyers are constantly changing their professional organizations— in and out of firms, government, in-house practice, accounting firms, etc. The Association should be a place these lawyers turn to for assistance in transition.

Technology presents a huge opportunity. By digitizing CLE programming and publications, it can become readily available for future redissemination. The strategic use of webcasts and webinars allow access to quality speakers, including limited discussion and Q & A, without the expense of a live panel program. Studio production, currently used in the webcasts and webinars, could replace more of our live programming. In short, technology could assist cutting expenses without significant loss of revenue and it could provide access to programming to those who prefer to pay a lower access fee than a live program might require. This can be overstated, however. For example, even in New York City it is possible to provide a full afternoon of live programming, together with a reception afterwards, at a neutral venue at a profit at a cost of between \$100 and \$150 per person. Cost savings due to technology must be tempered with other considerations.

At the same time, one of the skills to be imparted by CLE is the opportunity to learn to present in front of a live audience and participate in a give and take among other practitioners. Presentations need not be lecture and can be in round table or participatory format. Further functions of the live programming that cannot be replicated with

webcasts/webinars are networking opportunities and becoming socially acquainted with a lawyer who may be on the other side of a transaction or litigation tomorrow.

Efficiency requires better coordination among entities within the Association. This creates the opportunity to solve significant issues between Sections and the Association as a whole, and between staff departments.

## **STRATEGIC ISSUES**

### **1. Coordination:**

In order to accomplish Association objectives, there must be better coordination among staff departments and among Association entities. This is not easily accomplished. Some of the disconnects are historical – the manner in which work is divided, the way budgets are done, the way CLE is put together, the way publications are supervised may not be based upon any logical or thoughtful position– they may even be due to personalities who are no longer employed or active.

Everything about the organization of the Association should be “on the table.” The objective of this review is to ensure that through good coordination, the right mix of CLE is offered, helpful publications are getting to the members who need them, and advocacy is done in a non-contradictory way, allowing for input from all affected persons.

### **2. Reevaluate the Business Model:**

The Association's income includes membership dues, Section memberships dues, CLE registration fees, book sales, etc.. While this is probably the preferred approach, given

that it allows ultimate flexibility to members to pay only for what they choose to use, it might be appropriate to reevaluate the business model so that membership includes a certain amount of free or discounted programming to be offered in a variety of ways. It may be that by the provision of some free programming, revenues will increase through dues or other revenue producing measures. In any event, the Association must strive to understand and meet member expectations.

Advertising and sponsorships would enhance revenue, and most bar associations and similar organizations have turned to these sources. However, they must be evaluated carefully and with a set policy. Organizations have seen disasters ensue from poor sponsorship choices. Any new business model should be cognizant of Association image, from both a positive and negative viewpoint.

### **3. Awareness and Communication:**

Methods of communication must be reevaluated from the standpoint of cost and effectiveness. Large volumes of electronic communication, designed to inform the membership of news and opportunities may have a significantly adverse effect, if members are so inundated that they delete or screen out all e-mail. Paper communication is costly and may end up in a pile, discovered after any effective date. Getting information to members and to non-members is a challenge, and we must explore a variety of alternatives.

#### **4. Other issues**

One of the issues to be considered is whether and how the Association can increase national and international exposure, through CLE offerings, the effectiveness of our advocacy and other positive programming.

Also to be considered is the extent to which the Association should consider limiting the use of hard copy.

### **ASSUMPTIONS AND FORECASTS**

#### **1. Competition in CLE.**

There will continue to be competition for CLE revenues from other bar associations, for-profit providers, and in-house providers. We have to give potential member and non-member users a reason to choose to receive their CLE from the Association.

#### **2. Employment Services.**

There will be an increased demand for employment services from our members, particularly our young members. We must continue to provide programming in the employment service area, and we must tailor other programming to be cognizant that many of our members are in temporary employment, are underemployed or unemployed.

#### **3. Increased demand for specialized/customized programs and services.**

Specialized or customized programming is an objective that likely can be met in a cost-effective way using electronic delivery. All of our members will come to demand



electronic delivery for speed and efficiency. Our younger members already expect electronic delivery.

#### **4. Innovation in communications will be required.**

We need to intelligently address the respective advantages and disadvantages of electronic and paper communication, in the various contexts. The former is easily ignored, but inexpensive and speedy. The latter is expensive and can be wasteful, particularly where the recipient group is not properly targeted. Any dichotomy of preference with respect to age appears to be shrinking. Almost everyone prefers electronic delivery for speed of delivery; however, it does shift the cost and time of printing to the end-user. Hard copies of materials, particularly technical material for a seminar, are currently the choice of participants, and electronic delivery may simply be a cost-shifting of printing. It is likely, however, with the advent of Kindles, I-Pads and other electronic readers, that member expectations and preferences may change.

#### **5. Pressure on member's ability to contribute time and expertise for programs.**

We are extremely fortunate to have experienced, talented volunteers for all aspects of our programming. While there is no immediate indication that this will change, future economic pressures may limit the availability of the most experienced and knowledgeable members.

#### **6. Advocacy will continue to be an important program of the Association.**

Advocacy often sets us apart from other entities which provide CLE, publications and other member services. Advocacy has to be communicated to members as a value of membership. Advocacy on technical issues and on issues which benefit the profession

are universally beneficial to the membership. However, some advocacy on larger improvements to the justice system may be controversial, and must be communicated with sensitivity to the controversy.