

THE FLORIDA BAR BUSINESS LAW SECTION  
CORPORATIONS, SECURITIES & FINANCIAL SERVICES  
COMMITTEE MEETING

January 22, 2014  
Reunion Resort and Club  
Wyndham Grand Resort  
Orlando, Florida

MINUTES

1. Call to Order and Welcome. Meeting was called to order by Stefan Rubin, Chair of the Committee, who presided at the meeting.
2. Introduction of Members and Guests Present. All members present at the meeting, and all guests attending the meeting, introduced themselves and signed an attendance sheet.
3. Approval of Minutes. Upon motion, duly seconded, the minutes of the August 31, 2013 Committee meeting were unanimously approved.
4. Social Media. Miriam Sowinski spoke about the Business Law Section's push to better use social media in order to grow membership, poll the membership as to their opinions and to provide consistent representation of Business Law Section membership. She is working with the Communications Committee to determine an overall social media mission statement. A twitter account has been established for the Business Law Section (@FlaBizLaw) and if publishing an article on a firm website she suggested a great use of this account would be to also tweet it to this address for publication if so desired. She informed everyone that the Bar's Advertising Committee was soon to issue an opinion on the use of endorsements for LinkedIn and that in the meantime attorneys should not list skills and expertise unless certified in those areas. Gary Teblum commented that LinkedIn may remove the reference to "Expertise" and that this might be acceptable to the Bar.
5. Legislative Committee. Representatives from the Legislative Committee reported that the upcoming legislative session was to be a fairly quiet one but that our committee would be sent bills of interest to solicit any comments or positions. In particular, they reported that legislation for public benefit corporations (B corps) was in process and thanks was provided to Stu Ames and Stu Cohn for their work on that. It was noted that the Department of State wants to tack on provisions for distinguishing names of entities. There was also discussion about a one-stop business portal that the State of Florida was pushing to go live in May or June of this year allowing interface with multiple state business agencies at a time. The concern was discussed that if this was being pushed by the Department of Revenue (e.g. to confirm everyone is paying the appropriate taxes) that it may impact the people we work with at the Department of State.

6. Securities Law Matters. After Greg Yadley provided the dates of the upcoming Federal Securities Institute in Miami (February 6 and 7), Rob Barron asked whether broker/dealer legislation was likely to be passed by Congress. Greg responded that there was optimism that Congress would pass legislation codifying the recent SEC no action letter that an M&A intermediary in a stock sale is not engaging in a securities transaction but that nothing was in process to allow transaction-based compensation. Rob raised the issue of whether changes to Florida Statute 517 would need to be made if there were developments to avoid conflicts with federal law. While that led to a conversation about general solicitation, definitions of qualified purchasers, preemption and changes to Form D, if any, Professor Stuart Cohn reminded the committee that a year ago we discussed whether to revisit the securities statutes and clean them up in full, not just for the current issues being discussed. His law students prepared some materials and sent them to Laurie Green for consideration. The Chair then suggested that he would speak to Laurie and queried whether this was a project in need of a leader to pursue it further.
7. Harmonization/LLC Glitches. There was a discussion regarding the need to fix certain glitches in the Revised Limited Liability Company Act (“RLLCA”) and also whether there should be harmonization amongst the various business entities under Florida law. Phil Schwartz said that he was putting a list together to fix glitches like cross references in the RLLCA (not to offer substantive changes) and that the discussion regarding harmonization should take place as part of the discussion regarding revisions to Chapter 607. Gary Teblum concurred that there some cross references that needed to be fixed but nothing so momentous that it needed to be tackled in the 2014 session. He did, however, note that some people have suggested substantive revisions to the RLLCA should be made but that he was not aware of any intent to address those types of comments at this time. Rob Barron continued the harmonization discussion to note that dissolution, mergers and other substantive matters are addressed differently in the various business entity statutory provisions. Phil acknowledged that appraisal rights should be addressed in the various business entity chapters other than for LLCs and Stu Ames commented that he did not think that all entities should be treated the same.
8. Opinion Standards. Rob Barron’s report was that a first draft of the supplement regarding opinions for issuance of preferred stock has been prepared and he asked for 5-10 minutes at the June meeting to discuss enforceability opinions. He also highlighted that it would be good to address opinions for membership interest issuances for limited liability companies in the near future. He said that conference calls would be set every couple of months to discuss opinion matters with people who are not able to attend the regularly scheduled meetings. He expected that an exposure draft would be ready for distribution in June and that the goal was to finalize it by year end. He also suggested it would be good to address miscellaneous provisions, whether through supplements or amending and restating the entire report. Rob and Phil Schwartz further discussed the need to be careful in providing authorization opinions for Operating Agreements that are not amended to change references to “managing members”.
9. Chapter 607. Gary Teblum reported that the committee to revise the Florida Business Corporation Act had a good meeting earlier even if it did not make as much progress as expected. While the goal was to make it through seven sections of Article 2 the

committee succeeded in getting through four sections. He suggested that it was likely that a bill would be ready in 2016 although certainly a bill could be submitted in 2015 if the committee is ready at the fall meeting this year. The goal is to have one conference call each month after this meeting. Phil Schwartz queried whether two items should be moved on faster than the others in a piecemeal approach to amending the FBCA, namely parent subsidiary mergers and exclusive forum and shareholder access bylaws. That being said, Gary suggested it was easier to approve a long bill than a shorter bill and from the ensuing discussion it did not sound as if people were concerned about losing one more year for changes to be en masse.

10. Subcommittees Generally. The Chair expressed that there was a lot of work being performed by subcommittees outside of these regularly scheduled meetings. Phil Schwartz then made the point that there are only two requirements if someone wants to be involved – show up and participate.
11. New Business. The Chair reported the importance to Steph Nagin of increasing membership and/or participation. Ideas were discussed about possibly focusing on specific industries and that perhaps there could be structural changes to the committee or that there could be even more telephonic meetings, web programs or regional meetings. Regarding Chapter 617 Stu Ames and Phil Schwartz identified that while changes are being made to Chapter 607 that it may make sense for some of those to be applied to Chapter 617. The Chair acknowledged that and suggested it may make sense to seek volunteers for revising Chapter 617 at some point in the future.
12. Meeting Adjourned.