

**Minutes of the Meeting of the Executive Council
of the Business Law Section of The Florida Bar**

January 16, 2003

The Executive Council of the Business Law Section of The Florida Bar met on January 16, 2003 at the Mid-Year Meeting of The Florida Bar in Miami, Florida. Chair, John Emmanuel called the meeting to order at 3:30 p.m. The members of the Executive Council present at the meeting were:

Emmanuel, John David,
Chair

Murphy Jr., James Burton,
Chair-Elect

Long, Maxine Master,
Secretary-Treasurer

Ackerman, David Paul
Ames, Stuart D.

Austin, Scott Raymond

Berlin, Howard Jay

Beyer, David

Beyer, Hans Christian

Blain, Russell Merrin

Busey, Steve

Cohn, Stuart

Colton, Roberta Ann

Darrow, Kenneth F.

Davis, Jeff

Doppelt, Ava K.

Fender, George Steven

Gross, Merrick Lawrence

Henry, Nakia

Hirsch, Jeffrey Allan

Hyman Jr., Hon. Paul George

Koch, Jon

LaRose, Edward Camille

Litchford, Hal

Lott, Leslie J.

Macdonald, John Barber

Mahle, Stephen Eugene

Messana, Thomas

Murray, Jason Monroe

Nagin, Stephen E.

Olson, John K.

Orlin, Karen J.

Peretz, Steve

Porter, Jim

Rothman, Joel Benjamin

Schwartz, Philip Barry

Shuker, Scott

Silverman, Lawrence Dean

Singerman, Paul Steven

Teblum, Gary

VanNortwick Jr., Hon. William Alva

Wells, Diane Noller

Williamson, Hon. Michael G.

Wolfson, Mark Joseph

Also present by invitation were Yvonne Sherron of The Florida Bar, Section Lobbyist William B. Wiley, and Nakia Henry.

Approval of Minutes

M/S/A. On motion of Judge VanNortwick, the minutes of the August 24, 2002 meeting of the Executive Council were approved as submitted.

Treasurer's Report and Budget Committee Report

Treasurer Maxine Long reported on the 2003 proposed budget, which projects a surplus of \$8,000.00. Judge Williamson commented that the surplus results from a decrease in expenses and recapture of memberships that had lapsed. John Olson suggested that Judge Williamson's helpful spread sheet be attached to the budget materials in the future.

M/S/A. On motion of Jim Murphy, the budget was approved.

Special Committee on IP Certification

Phil Schwartz gave the IP Special Committee report. The Chair thanked Phil and conveyed the thanks of past Chair Dave Felman for Phil's hard work on this issue with his committee. The interim report from the Special Committee to the IP committee, and the Special Committee's proposal were discussed at the IP committee meeting today. The IP community has been invited to comment on specifics of the proposal. The Special Committee will not be meeting until the end of April, when it will decide what changes to the proposal may be deemed necessary and then report to the Executive Council at the June annual meeting.

COMMITTEE REPORTS

A. Antitrust Franchise and Trade Regulation

Jason Murray gave the committee report. The committee discussed the certification process and possible grandfathering of antitrust attorneys with more than twenty years experience. Steven Feidelman will investigate possible franchise certification. A franchise law seminar scheduled for January 17, 2003, has over thirty registrants. The next seminar will be at the next mid-year meeting, with possible topics on antitrust, trade secrets, and non-compete agreements. Larry Silverman will chair, possibly jointly with the IP Committee.

B. Bankruptcy/UCC

Russ Blain gave the committee's report. A speaker from the Weil Gotschal law firm discussed Judge Steele's decision in Overmeyer v. Arnett relating to fraudulent transfers. The materials prepared for the "View from the Bench" seminar by Judge Williamson and Paul Singerman are to be made more widely available. A study group has been formed to consider Art. I UCC reform. Mark Wolfson reported that the "mega case" rule of Southern District of Florida is also proposed for the Middle District of Florida. The Volker Commission report on judicial salaries was discussed, and its recommendation of judicial pay raises to maintain the quality of the federal bench.

M/S/A - On motion by Jeff Hirsh the Executive Council voted to support the judicial salary recommendations of the Volker Commission Report. Judges Hyman and Williamson abstained.

C. Business Courts Committee

No report for now.

DC. Business Litigation Committee

Jeff Hirsh thanked Rick Gross for his time and effort on the "Advice From the Experts" seminar. An Orlando seminar on the same subject is to follow. Rick Gross and Jon Koch will spearhead a possible ADR seminar. A proposal for a judgment enforcement seminar was considered.

E. CLE Committee

Larry Silverman gave the report of the Committee. The offer of books at a discount was a draw, as well as were judges as speakers for the "Advice From the Experts" seminar. We may be able to tie in other West or Lexis publications with seminars. Bankruptcy law seminars continue to be successful. The upcoming franchise law seminar expects 40 attendees. Telephonic call-in seminars were suggested for future consideration..

F. Computer Law Committee

Joel Rothman gave the report of the Committee. He is working with the Florida Bar on an e-commerce technical task force. A January 30 meeting is scheduled to discuss e-signatures, with a report to be published in The Fla Bar News. A computer law mediator program is being considered.

G. Communications Committee

Chair Diane Wells gave the report. Dot.marketing is launching a test site tomorrow to demonstrate new functions, and a full launch of the improved Section website will occur soon. Hans Beyer spoke to all Section committees on the Section's website status. The committee will then distribute suggestions and help on use of website and new functions. Improving use of the Section's membership data base to broadcast information was discussed. Advertising sponsors are being sought for the website, and the news sidebar is being replaced with a sponsor list. Advertising will cost \$250 for a blurb on the sponsor; \$350 will include a link to the sponsor firm's website, with additional page links at additional cost; \$500 for a directory page ad; and a discount for multiple pages. Major sponsors would be charged \$5,000 - \$10,000.

M/S/A. A motion by Diane Wells to approve pricing for sponsors as above was seconded by Hans Beyer and approved.

Bill Wylie and John Macdonald will do legislative updates during Session. Scott Shuker will cover local Bankruptcy Bar association news as liaison.

H. Corporations, Securities and Financial Services

Chair Scott Austin gave the report of the Committee. The work of the Chapter 607 subcommittee was reviewed. Chapter 620 will be reviewed to align it with ReRULPA. A teleconference seminar is planned in May to discuss the Sarbanes-Oxley attorney regulations expected in April. A privacy law seminar is planned re Patriot Act and financial services effects. Thanks were expressed to Professor Stuart Cohn, Reporter for the Chapter 607 changes, and to the committee task force: Chair Jim Porter, Gary Teblum, Bill Wylie, and Jay Kassees of the Florida Department of State, Head of Division of Corporations. Jim Porter also thanked the Florida Department of State for its cooperation and help.

Stu Cohn gave an overview of the 27 proposed changes to Ch. 607 (13 from Dept. of State and 14 from Business Law Section) and drew special attention to 3 major areas of change:

- 1) addition of § 1407 for remote communication participation in shareholder meeting

- 2) adoption of the Model Act provision for appraisal rights, with some changes, prospective so as not to eliminate existing rights.
- 3) recognizing oppression by directors as a ground for judicial dissolution. Forty other states have this, but due to concern about opening the floodgates of litigation, corporations with 35 or fewer stockholders can opt out of this provision. It will not go into effect for one year, so that small closely held corporations can decide whether to opt-out.

M/S/A On triple motion by Scott Austin, seconded by Phil Schwartz, the proposed legislation was approved as drafted and discussed.

A motion by Jon Olson to amend the proposed § 607.0141, notice provision, which requires only a single notice to more than one shareholder at the same address, was defeated.

I. Intellectual Property

Chair Stephen Nagin gave the Committee's report. Phil Schwartz reported to the committee on the special task force's work and report. CLE credit was provided for a presentation from a jury psychologist.

J. Judicial Liaison Committee

Judge Paul Hyman reported for the Committee. The Committee now consists of 17 members. The new bankruptcy bill is expected to pass early in the House without the abortion issue amendment. The U.S. District Court for the Southern District of Florida has amended its Bankruptcy Local Rules re "mega" cases. The Judicial Liaison Committee was instrumental in supporting this change, and Judges Orshan and Hyman co-chair the Local Rules committee. The Committee's next meeting is scheduled for the August Retreat.

K. Legislative Committee

Chair Mark Wolfson reported for the Committee. The Chapter 607 amendments are the Committee's main project for this year. Revision of UCC Article I is a year away, and the judgment lien statute changes are also deferred for one year at the request of the Secretary of State.

Referring to the master list of Section legislative positions, the Legislative Committee does not take a position on the proposed REPTL amendment to Chapter 725 re contract indemnification for bad acts.

L. Long Range Planning Committee

The Long Range Committee had no new business to report.

M. Opinions Committee

The Opinion Committee had no new business to report.

N. Student Liaison Committee

Chair David Ackerman gave the committee's report. Several members of the Executive Council are faculty or adjunct faculty at Florida law schools. Dave asked for volunteers to serve as liaisons with others, including the new law schools at Barry, FIU, and FAMU.

O. Chairs Report

John Emmanuel extended congratulations to Alina Cooper on the arrival of her baby, and his thanks to Yvonne Sherron for filling in for Alina while she is on maternity leave.

M/S/A - A motion to buy a gift certificate (\$200) for Alina was seconded and approved, Possible coordination of seminars with the International Law Section was mentioned.

The Section's block of rooms for the New Orleans trip package are all booked by now. Attendees are reminded to purchase their Jazz Fest tickets in advance.

O. Chair Elect's Report

Jim Murphy reported that the 2003 Annual Retreat planning is well on its way. It will be held August 21-24 at the Ritz Carlton Manalapan in Palm Beach County, and he is asking firms to sponsor.

Jim announced plans for the Executive Council's 2004 Spring Meeting in London. It is suggested that we leave Wednesday night, March 31, to get the benefit of a cheaper air fare, and arrive Thursday morning. The meeting would begin with a Thursday evening reception. The Executive Council meeting with dinner and a cruise would take place Friday night. Saturday would be reserved for tours and theater. On Sunday there would be an optional side excursion to Stonehenge and Bath at a cost of about \$100.00. Return to Florida on Monday. Total cost will be approximately \$1,900 per person, including accommodations at the Grosvenor Inn Hotel, and non-stop air fare from Orlando and Miami. The Section's judicial liaisons would be reimbursed.

Stu Ames reported regrets from Phil Bates who will be unable to attend.

Thereupon the Committee adjourned at 5:10 p.m.

Respectfully submitted,

Maxine M. Long, Secretary/Treasurer