

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

March 26, 2004

The Executive Council of the Business Law Section of The Florida Bar (the "Section") met on March 26 2004 at the Grosvenor House in London, England, in connection with the Spring Retreat. Chair James B. Murphy Jr. called the meeting to order at 9:00 a.m. (Greenwich Time). The members of the Executive Council and other invitees present at the meeting were:

Murphy Jr., James B., Chair
Wolfson, Mark, Secretary/Treasurer
Gale, Jim
Mahle, Steve
Nagin, Steph
Davis, Jeff
Murry, Jason
Fox, Bucky
Shucker, Scott
Lake, Kacy
Blain, Russ
Van Nortwick, Bill (Hon.)
Gross, Rick
Duckworth, Bob

Introduction

The Chair welcomed all Council members. The Chair mentioned that the Chair-Elect could not attend the meeting due to the sudden passing of her husband, Tony.

I. Approval of Minutes

M/S/A. On motion of Scott Shuker, the minutes of the January 15, 2004 meeting of the Executive Council were approved as submitted.

II. Treasurer's Report

Treasurer Mark Wolfson went over the Detailed Statement of Current Operations and last month's activity.

III. Special Committee Reports

Multi-Jurisdictional Practice Committee – Rick Gross reported that Steve Maher filed on March 9, 2004 the Section's brief in opposition to the Bar's position on Florida arbitration and pro hac vice proposed rules. Rick acknowledged the huge contribution that Steve has made for the benefit of the Section. The Chair thanked Rick and Lou Conti for their leadership on this issues. Russ Blain suggested the brief be put on the Section's website.

Article V – Judge Van Nortwick stated that the Section’s efforts to support full court funding, particularly with other groups such as the bankers, chambers of commerce, and Florida Tax Watch, were very well received and had a positive impact on the process. Tax Watch had issued a report on the impact of insufficient funding. The Governor’s budget as filed would mostly fund the courts except not all law clerks positions requested for circuit courts. It was noted that Justice Pariente, who is the incoming Chief Justice, and that she was also receptive to working with the Section on issues of common interest.

Business Courts – Rick Gross reported that the new division in Orlando is gathering data on how long it takes to complete a business cases. Judge Roche is the assigned judge and already has a many cases. The Chair mentioned that a task force in Tampa, including him, Ben Hill, and Dave Felman, have met with Judge Menedez and they are gathering information on the potential number of business court cases.

Proposed ABA Ethics Rules Changes Special Committee. Judge Van Nortwick reported on the status of the work of the Special Committee created by the Chair to review and report back to the Council on the proposed ABA changes to the Model Ethics Rules which were approved by the ABA in 2002 and proposed for adoption by the various state bars. He announced the Special Committee had worked on a letter to the Bar’s Ethics Counsel, which objects to the rules governing conflicts of interest involving prospective clients. The Bar does not want to adopt the ABA position on this issue. There was also a discussion about the impact of Sarbanes Oxley on state bar rules.

M/S/A Upon motion by Bucky Fox, it was approved that the Special Committee prepare a letter to be sent to the Bar and, if appropriate, the Florida Supreme Court, recommending the Bar adopt the ABA’s proposed model rule on former prospective clients.

IV. Committee Reports

A. Antitrust Franchise and Trade Regulation – Jason Murray gave the Committee report. He said that the January 16, 2004, seminar sponsored by the Antitrust, Franchise, and Trade Regulation Committee, along with the Computer Law Committee and the IP Committee, was successful and also resulted in higher attendance at the Committee meeting. He added that Burger committee meeting was well attended, as always. There was nothing significant to report except that the committee was actively involved in Sen. Aronberg’s bill about the sale of customer lists. The committee continues to work on various projects.

B. Business Litigation Committee – Kacy Lake, Vice Chair, gave the Committee report. She said the Miami meeting was fairly well attended and that they continued to work on CLE and updating the Bus Lit Certification test preparation materials.

C. CLE Committee. Alina Cooper reported that View from Bench did very well in terms of finances and attendance. She added that the Alternatives to Bankruptcies Strategies seminar had generated almost no interest and was cancelled. She mentioned that a program with similar topics had been done in the recent past. A discussion then ensued about considering web seminars, direct to tape recordings for Bus Lit Certification, and getting sponsors for seminars.

D. Computer Law Committee – No Report.

E. Communications Committee – No Report.

F. Corporations, Securities and Financial Services Committee – Karen Orlin, Vice

Chair, made the report for that Committee. She said the committee had continued its work on LLC statute revisions and was trying to focus on recruiting minority members.

G. Intellectual Property Committee – Jim Gayle provided the report for that Committee. He mentioned the joint seminar had 32 attendees. He said there is a legal practice insurance crisis developing in the practice area, which is hurting small firms. He added that a vocal group was still objecting to state certification for IP lawyers in Florida. Greg Mayback is working on that issue.

H. Judicial Liaison Committee for Bankruptcy – Russ Blain gave the report. He said the Committee continues to be active. They have discussed the potential use of a listserv to communicate among the members.

I. Legislation Committee – Russ Blain gave the report. He advised that that Sen. Aronberg had accepted the Section's suggested changes on the bill regarding the sale of customer lists. One primary area was to make sure the bill is consistent with federal FTC law. It was announced that a corporate bill had been introduced to tax LLC's. HB 1553 and SB 288.. Stu Cohen and Stu Ames have been dealing with this issue for the Section. They had requested a triple motion to oppose the legislation. The 607 glitch bill was discussed. A discussion ensued about Stu Ames' support of the Florida Bankers' request to amend the mortgage assignment statute, Section 701.02, to permit perfection of the collateral assignment of a note by filing a UCC. Russ mentioned there is discussion about clarifying the judgment lien statute to address motor vehicles. There was also a discussion about a bill being proposed to require notice on a gift certificate about an expiration date. The Florida Retail Federation was very involved in the issue.

M/S/A On a triple motion by Russ Blain, it was approved without opposition that the Section opposed efforts to tax LLCs and that Bill Wiley was directed to represent the Section's interests on the issue.

M/S/A On a triple motion by Russ Blain, it was approved without opposition to support the Florida Bankers' proposed change to section 701.02.

M/S/A On a triple motion by Gary Teblum, it was approved without opposition not to oppose the requirement of a reasonable minimum duration for the validity of a gift certificate. Bill Wiley would be informed of the Section's position on SB2570 and HB 1053.

J. Long-Range Planning Committee – No report.

K. Opinions Committee – No report.

L. Student Liaison Committee – No Report.

M. Chair's Report - Jim Murphy reported on the status of the Retreat to be held at Manalapan in Palm Beach County on August 19-22. \$20,000 had been raised in sponsorships. A negotiation skills workshop and an ethics seminar are planned. Judge Roche is speaking as is Justice Pariente. London Spring meeting for Executive Council and noted that Judge Van Nortwick had arranged for Inns of Court tours. He said members could still sign up for the meeting.

The Chair thanked Judge Van Nortwick's special committee on the Bar's proposed ethics rule changes, which had worked hard and drafted a letter to be submitted to the Bar's UPL counsel. The primary focus of the Section's position is to oppose the Bar's effort to unduly restrict lawyers from representing one client on a matter if he or she had met with a prospective client on the same matter on but never been engaged or received any confidential information.

N. **Chair-Elect Report** – No Report.
Thereupon, the council adjourned at 11:20 a.m.

Respectfully submitted,

Mark J. Wolfson
Secretary/Treasurer