

**Minutes of the August 14, 2005 Meeting
of the Executive Council of the Business Law Section
of The Florida Bar**

On Sunday, August 14, 2005 at approximately 8:30 a.m., the Executive Council of the Business Law Section of The Florida Bar met during the Business Law Section's Annual Retreat at the Ritz Carlton Palm Beach in Manalapan, Florida. The following members were in attendance:

David Ackerman	Edward LaRose	Murray Silverstein
Stuart Ames	Samuel Lewis	Paul Steven Singerman
Danny Aronson	Maxine Long	Thomas Smith
Douglas Bates	Stephen Mahle	Mark Stein
Russ Blain	Bridget Meranda	Gary Teblum
Robert Colton	Tom Messana	Robert Thornburg
Steven Fender	Mindy A. Mora	William Van Nortwick
Bucky Fox	Jim Murphy	Lori Vaughan
James Gale	Jason M. Murray	Diane Wells
Brian Gart	Stephen Nagin	Bill Wiley
Rick Gross	Karen J. Orlin	Michael Williamson
Michael Higer	Mark Roher	Mark Wolfson
Jeff Hirsch	Joel Rothman	Don Workman
Alan Howard	Marsha Rydberg	Greg Yadley
Paul Hyman	Lisa Schiller	
Theodore Klein	Philip Schwartz	

Chair, Mark Wolfson welcomed all Executive Council members and guests.

I. Meeting of Business Law Section Executive Council in Casa de Campo, Dominican Republic – 4/27/06 – 4/30/06

Chair Mark Wolfson informed the Executive Council that its Spring, 2006 meeting would take place in Casa de Campo, a resort in the Dominican Republic. The meeting would be held from April 27, 2006 through April 30, 2006. Chair Wolfson then presented a video about the resort and other amenities located nearby.

II. Approval of Minutes

Upon motion, with a second, the minutes of the June 23, 2005 meeting of the Executive Council at The Florida Bar Annual Meeting were approved as amended.

III. Treasurer's Report

Treasurer, Rick Gross, presented the current financial status of the Section reporting that the Section continues to be in good financial condition. A discussion was undertaken about the Section's August, 2005 Un-Audited Statement of Operations, which was distributed to all Council members present. Thereafter, a discussion was undertaken to determine whether or not

a dues increase of \$5 should be passed onto the Section's members. Upon motion by Russ Blain, seconded by Greg Yadley, a \$5 dues increase was approved. Thereafter, upon motion, with a second, the Treasurer's Report was approved.

IV. Special Committee Reports

A. Chapter 517 Special Committee. Chair Mark Wolfson explained to the members of the Council that he had authorized the creation of a special committee to study proposed changes to Chapter 517 of the Florida Statutes. Stu Cohen and Greg Yadley had been appointed co-chairs of this Special Committee with Louis Conti being appointed vice chair. The Committee's mandate was to take the next two years to study proposed changes to Chapter 517. The Committee was to hold its first meeting in the fall of 2005.

V. Committee Reports

A. Anti-Trust, Franchise & Trade Regulations. Jason Murray gave the Committee report. The Committee is looking into the issue of consultants in the franchising law area undertaking the unauthorized practice of law when advising clients. The Committee has been approached by the Bar's Unauthorized Practice of Law Committee to express its opinions this subject. The Committee determined not to police UPL but rather to help the UPL Committee with this subject if asked. The Committee also was going to undertake two or three Lunch & Learn CLE Programs during the 2005/2006 year. The first program was to take place in December, 2005 on the subject of Covenants Not to Compete. Finally, the Committee was looking into the creation of a handbook on Franchise Law for judges and practitioners.

B. State/Federal Judicial Liaison. Judge William Van Nortwick gave the Committee Report. The Committee is seeking to begin an outreach program to various state court judges. The Chief Judges and Administrative Judges from the Broward County, Miami-Dade County and Palm Beach County Circuit Courts had been invited to attend the Committee's meeting during the Annual Retreat. Chief Judge Kathleen Kroll of Palm Beach County attended. The Committee also decided to invite the Chief Judges and Administrative Judges from Broward County and Miami-Dade County to attend the Committee's meeting at The Florida Bar Mid-Year Meeting in January, 2006. The Committee is looking into interaction between the Federal Court Judges throughout the state and the Bar. There is also a continued outreach to develop additional business courts within the state court system of Florida. Judge Van Nortwick reported on an August '05 Conference on the subject of Business Courts which had been held in Hillsborough County. He also reported that the Committee had learned from members practicing in Miami-Dade County that if additional judges are authorized by the Florida Legislature in '06, a Business Court will be started there. Finally, Judge Van Nortwick explained to the Council that the Supreme Court wanted to set up a program so that it could interact with general counsel from companies based in the State of Florida. The thought of these interactions would be an effort to improve the Florida court system. The program would be similar to the one the Supreme Court held with business leaders during 2005. The Supreme Court had been communicating with the National General Council Committee in this regard. It was hoped that a program between the Florida Supreme Court and general counsel based in the State of Florida could be held during the Winter of 2006.

C. Sponsorship Committee. Chair Mark Wolfson stated that he had created a new committee to look into the issue of sponsorships and had appointed Tom Messana to chair this committee. A discussion was then undertaken during which it was learned that approximately \$44,250 had been pledged and/or collected as sponsorships in connection with the Retreat. From a total of 42 sponsors, this broke down to 32 law firm sponsors who pledged and paid \$20,250 and ten non-lawyer sponsors who pledged and paid \$24,000. There had also been a donation of \$1,400 in cash that was used to create the seven baskets that were given away as part of the casino night festivities at the Annual Retreat. Tom Messana then discussed the fact that the Committee would seek to increase sponsorships for all Section events during the 2005/2006 year. In this regard, he was setting up a meeting with Michael Poole of PCE and developing a schedule which would list the benefits a proposed sponsor could obtain based on various levels of sponsorship.

D. Opinions Committee. Philip Schwartz gave the report of the Committee. He indicated that some preliminary discussions had been undertaken amongst members of the committee to determine in what manner to rewrite the standards that had been created 15 years earlier.

E. Membership/Law School Relations. David Ackerman gave the report of Committee. David reported that Business Law Section committees had been created at the FSU, Nova and University of Florida law schools to date and that such committees were proposed to be created at the University of Miami School of Law and Stetson University School of Law. In connection with the new programs at UM and Stetson, law firm receptions were proposed. The Committee also discussed how to make better use of the Section's website to provide benefits to law student members of the Section. The Committee was also looking into creating materials to pass out to new lawyers getting out of law school. Laurie Vaughan had been appointed to chair a subcommittee on this issue.

F. Long-Range Planning. Roberta Colton gave the report of the Committee. A discussion was held by members of the Committee to review and possibly recommend changes to the reimbursement guidelines for the Section's academic and judicial members. Guidelines had been enacted to keep academic and judicial members active in the Section. Additional discussions were undertaken with regard to whether a change in the Section's By-Laws was necessary to set term limits for judges and professors to serve on the Executive Council, whether they could be appointed to the Long-Range Planning Committee and whether the meeting dates of the Long-Range Planning Committee should be changed.

G. Council of Sections. Marsha Ryberg gave the report. The budget process undertaken between the Council of Sections and the Florida Bar has been completed. One of the recommendations in order to better allocate resources between the various sections and the Bar was to have the various sections vote on whether to increase their dues, a vote that had already been passed during the Council's meeting.

H. Corporation/Securities. Karen Orlin gave the report of the Committee. A CLE program was to be undertaken by the Committee at its meeting in January 2006. Rob Brighton would be putting on a presentation on SEC Regulations. The Committee would also be examining whether to seek an amendment to the Florida Not-For-Profit Statute. During its

meeting at the Annual Retreat, the Committee had also approved its goals for the coming year. It had reviewed whether or not amendments were needed to the Florida Limited Liability Act and had determined to put on a half day seminar in November of 2005 on REFRUPA. The Committee was also seeking to put on a number of Lunch & Learn CLE seminars during the year.

I. Computer Law. Robert Thornburg gave the report of the Committee. The Committee was going to work on two pieces of legislation during the year. House Bill 481 was to be introduced by Representative Aronberg and the Committee was looking into the potential anti-spam legislation. The Committee had put on a CLE program at the Annual Meeting which was attended by 55 people. The Committee was planning an additional CLE program for the 2005/2006 year dealing with issues involving BLOGs. One proposal was that a CLE program be put on at the Mid-Year Meeting in Miami on the subject of BLOGs for lawyers. Another CLE programs that was being discussed was one involving E-Discovery which might be put on with the Business Litigation Committee.

J. Communications. Sam Lewis gave the report of the Committee. Discussion was undertaken about the Section Website's new design. The newly designed website was up and running and had been announced by a blast e-mail. Council members were encouraged to review the site and give their comments. The Committee was also determining whether or not to add BLOGs. Discussion was undertaken as to whether or not to offer sponsorships associated with posting advertising on the Section's website. This would fall within the Section Chair Elect's initiatives and discussion would be undertaken with the Sponsorship Committee on the subject. The new editors of the Quarterly were introduced. They are Bridget Meranda, Melanie Damian and Mark Roher. It was mentioned that one article was already in place for submission to the Florida Bar Journal, but other articles were being looked for. Sam Lewis then introduced a motion which was seconded by Joel Rothman that the Committee be authorized to spend \$2,000 to develop marketing materials for the Section. After discussion, the motion was passed.

K. CLE Committee. Michael Higer gave the Committee report. The Committee was planning lots of Lunch & Learn CLE programs over the upcoming year. The various substantive Committees of the Section were very supportive of the concept. There also was a full slate of other CLE programs that was being prepared. Additionally certain Committees were looking at getting some CLE credit as part of their substantive meetings. Marsha Ryberg noted that there was a new Bar mandated split of income arising from CLE programs. This new split would be reviewed in connection with any programs to be undertaken.

L. Business Litigation. Stephen Feder gave the Committee report. It was reported that the Committee had a great turn out at its meeting at the Retreat. The committee is planning two CLE programs; one on E-Discovery in January 2006 and one on Federal Practice in May 2006. The Committee also plans to put on a couple of Lunch & Learn CLE seminars. The Committee is reviewing Fla. Stat. §48.081 in connection with a proposed amendment to that statute which is being promoted by the International Law Section. The Committee formed a subcommittee to study the proposed amendment. At the Committee's Meeting, Melanie Damian and Peter Valori presented their case law update and Stephen Wetstone gave a seminar on E-Discovery.

M. Bankruptcy/Judicial Liaison Judge Paul Hyman gave the report of Committee. The Committee discussed the effects of the new bankruptcy bill that was going into effect in October 2005. The Committee was also reviewing the creation of new Local Rules in both the Southern District and Middle District to implement the provisions of the new bankruptcy bill. It was also disclosed that e-filing is now taking place in the Southern District Bankruptcy Court and that the Committee's next meeting will take place in June 2006.

N. Bankruptcy Lisa Schiller gave the Committee report. During the Committee's meeting at the Retreat, Soneet Kapilla gave a presentation on the role of Ch. 11 Trustees. There was a discussion of the Bankruptcy Reform Act CLE programs that had been put on in Tampa and Miami. There was discussion regarding the relationship between the local bankruptcy bars and the Committee. It was announced that the Committee's Annual View From the Bench seminars would take place in Tampa on October 21, 2005 and Miami in October 22, 2005. There was also a discussion about a number of actions the committee plans to take over the next year including, reviewing proposed amendments to Article 1 of the UCC, the creation of a student liaison committee and looking into the ethical considerations of a Ch. 13 bankruptcy lawyer acting as a mortgage broker. It was disclosed that the Bar's Professional Ethics Committee was considering amendments to the Rules of Professional Conduct that would allow such actions to take place. The issue was brought before the Executive Council to determine whether or not the Section should take a position on this issue. After significant discussion, a motion was made by Lisa Schiller, as amended by Russ Blain, to give the Executive Committee of the Executive Council power to review and take action regarding any proposed ethics opinions or amendments to the Rules of Professional Conduct by the PEC which would allow a Ch. 13 debtor's attorney to also give mortgage broker services to that lawyer's clients. This would allow the Section's views on any proposed ethics opinions or rules amendments to be considered, including whether or not to file any objections to, or appeal from, any formal opinions created by the PEC. This motion was passed.

O. Legislative Committee Russ Blain gave the Committee report. The Section had a very successful year with its legislative agenda. REFRUPA passed and the legislature authorized the appointment of 55 judges. The judgment lien glitch bill passed. Unfortunately the Bankruptcy Reform Act also passed. There are lots of new issues for the Committee to follow this year including revisions to Ch. 607, anti-spam legislation, legislation to create new judges, revisions to Ch. 617, the stealing equity bill and proposed changes to the arbitration statute. Once the legislature goes into session, the Committee will have telephonic conferences with Bill Wiley on a weekly basis. Bill Wiley also requested that Executive Council and Section members follow-up with their local legislators to establish relationships.

P. Intellectual Property Committee Mark Stein gave the Committee report. The Committee is reviewing and commenting on proposed amendments to Florida's Trademark Statute, Ch. 495. Michael Chesal is overseeing a subcommittee reviewing this work. A draft of any proposed amendment will be circulated in the fall. If a proposed amendment is completed, it will be approved by the EC by triple motion by e-mail. At this point, the Executive Council gave its approval to the IP Committee to work on the amendment and to give technical input to any existing legislation. The Committee also disclosed that it would hold a number of Lunch & Learn CLE programs during the year.

Mark Stein then addressed the issue of IP certification standards. Mark made a triple motion, which was seconded by Jim Gale, that the Section approve the standards for ZP Codification that had been previously approved by the IP Committee and by the BLSE. This would lead to the certification of IP lawyers in Florida. There was much discussion about the pending motion. The standards that had been previously worked upon by members of the Section and the IP Committee had been approved by BLSE. Phil Schwartz raised certain issues in opposition to the motion. After significant discussion, the motion was passed with one nay vote.

VI. Chair-Elect's Report

Chair-Elect Diane Wells gave this report. Diane stated that she would be working with the Sponsorship Committee to put together criteria and benefits to be offered to various potential sponsors. Diane further stated that she was going to reform the Retreat Committee for it to begin working on next year's retreat which will also be held at the Ritz-Carlton Palm Beach in Manalapan, Florida. Among the suggestions that she had collected during this year's Retreat were that the sponsors should have more access to the Committees so they can feel more involved in the Retreat's programs. It was also pointed out that after the summer of 2006, the Section must determine where it wishes to hold upcoming retreats and negotiate with various resorts to obtain the best package for the Section. Rick Gross and Russ Blain would be responsible for this.

VII. Recognition of Alina Cooper

Mark Wolfson led the Council in thanking Alina for her long work with the Business Law Section and its Executive Council over the last few years. Alina is moving to Tampa with her family in the fall and Austin Newberry will replace her as the Florida Bar's liaison to the Section.

Thereupon, the council adjourned at 11:35 a.m.

Respectfully submitted,

Merrick L. Gross
Secretary/Treasurer