

# College Columns

News and Views from The American College of Bankruptcy

## Publications Committee Report



▲ Evelyn H. Biery

By Evelyn H. Biery

Please continue to forward to me information on your honors and achievements, your interests outside the practice of law, and humorous stories about the practice of law. Your fellow Fellows would be delighted to hear more about you.

The Publications Committee is continuing the projects it has previously embarked upon. If you would like to serve on one of the subcommittees, please contact me at your convenience.

The *College Columns* Subcommittee has published bi-annual issues of the *College Columns* and will continue to do so. Its members include Harry Dixon, John Kozyak, Cecelia Morris, Robert Sable and Blaine Schwabe.

The Law Review Articles Subcommittee will continue to review seminar papers and law review articles during the year and forward the most impressive to the College Fellows, as we did with the article on ethics by Jerry Smith and Sally Neely. Its members include Tom Ambro, Don Bernstein, Dan Cohn, Hon. Burton Lifland, Joel Pelofsky, Isaac Scott and Walt Taggart.

The Memorial Lecture Subcommittee will continue to work with our Scholar-In-Residence, Prof. Alan Resnick, to present an ethics lecture. It is our hope that the lecture will take place in a resort and will become an annual event sponsored by the Committee, under the auspices of the College. Its members include John Barrett, Richard Broude, Jan Hayden, Simon Kimmelman and Michael Reed. ☞

## Chairman's Report



▲ Raymond L. Shapiro

By Raymond L. Shapiro

The Board is enormously grateful to Judge Mary Davies Scott for undertaking the leadership needed to establish the National Bankruptcy Archives. Her energy and relentless pursuit of this project deserves our praise. The College is grateful also to the University of Pennsylvania for committing its resources to this effort, to Professor Charles Mooney for his enthusiasm and support, and to Leon Forman and other members of the History Project Committee.

Our ability to support the establishment of the National Bankruptcy Archives, to increase funding for pro bono programs, to fund special courses in law schools, etc., is all made possible through the support we receive from our Patrons and Sponsors Program. This has been a breakthrough year, and we are grateful to each Patron and Sponsor for your generous support.

In order to provide a successful transition when Merrill Francis' current term as Chair of the Board of Regents concludes in March 2001, the Board determined to appoint his successor at this time. We are pleased that John Barrett has agreed to undertake this important function for the College. John will coordinate with Merrill over the next year to assure us of an efficient and orderly transition next March when John will assume his official duties.

We congratulate Jerry Smith on his

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## Nomination Procedures for Twelfth Class



▲ Merrill R. Francis

By Merrill R. Francis

In mid-April of 2000, Merrill R. Francis, Chair of the Board of Regents, wrote to each Fellow requesting that nominations, together with biographical information and other supporting data, be forwarded to each Circuit Admissions Council by June 16, 2000. Fellows are reminded that the nominations should be complete and that substantial due diligence is required in order to make it likely that a candidate will receive an invitation; incomplete and insubstantial nominations are less likely to receive favorable consideration. It is imperative that nominees not be contacted. All names of nominees must be kept **confidential!** We want to avoid any potential embarrassment on the part of someone who may be considered but not extended an invitation.

Nominations for Judges should be forwarded to Leonard E. Gilbert (Chair, Judicial Nominating Committee), and nominations for Foreign Fellows should be forwarded to Daniel M. Glosband (Chair, Foreign Fellows Nominating Committee). Thereafter, each Circuit Admissions Council will review nominations received for that Circuit (other than Judges and Foreign Fellows) and begin the process of making recommendations to the Board of Regents.

Each Fellow within a Circuit will receive the names of the proposed Fellows in that Circuit (other than Judges and Foreign Fellows) and be asked to comment on each proposed Fellow. Final Circuit Admissions Council recommendations and recommendations of the Judicial Nominating Committee and Foreign Fellows Nominating Committee will be forwarded to the Board of Regents, which will meet on Wednesday, October 18, 2000, in Boston, Massachusetts, in conjunction with the meeting of the National Conference of Bankruptcy Judges. Invitations to new Fellows for the Class of 2001 will be sent out in mid-November of 2000. ☰

## New Foreign Fellows

By Daniel M. Glosband



▲ Daniel M. Glosband

The Class of 2000 included five new Foreign Fellows from diverse professional and geographic settings, representing the accounting, academic and legal professions, the Inductees come from as far as New Zealand and Hong Kong to as close as Canada. By unplanned coincidence, all live in either England or parts of the former British Commonwealth.

Charles Booth is an American who graduated from Yale University and Harvard Law School but has been a faculty member at the University of Hong Kong since 1989. He now serves as Associate Dean and Associate Professor of Law. A prolific writer, editor and lecturer, his list of publications, lectures and professional activities fills nine single-spaced pages. Much of Professor Booth's writing and research focuses on transnational or "cross-border" insolvency, including articles on U.S., Chinese and Hong Kong laws. He has lectured in Japan, China, Singapore, Malaysia, the Philippines, Hong Kong and the U.S. and has developed a special expertise in Hong Kong insolvency law, its proposed reform and the effects of the 1997 transition to control of Hong Kong by China.

Yoine Goldstein is a native of Montreal who received his undergraduate and initial law degrees from McGill University, the latter with honors. He went on to receive a diploma in comparative legal studies and a doctorate (with great distinction) from the Université de Lyon. Since admission to the bar of Quebec in 1961, Yoine has been a member of the firm of Goldstein, Flanz and Fishman in Montreal and in 1993 served as special counsel to Olympia & York Development Ltd. in its simultaneous U.S. and Canadian reorganization proceedings. Bar and educational activities include Founding Director and member of the National Executive Committee of the Insolvency Institute of Canada, Founder and past Chairman of the Quebec Section on Bankruptcy of the Canadian Bar Association, Lecturer on Commercial Law and Bankruptcy and Insolvency at

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## Nomination Procedures for Judicial Fellows



By Leonard H. Gilbert


Members of the College are encouraged to submit nominations to the Judicial Nominating Committee, particularly from locations which are not well represented in the College. It is hoped that the membership will make an extra effort this year to seek out qualified candidates in these areas.

The Committee also wishes to call attention to applications which were submitted last year but which were not acted upon as the proposers need to update and supplement these applications to bring them current. If you wish to have the application considered again, please advise the Committee.

Without a complete application setting forth the accomplishments of the candidate in great detail, as is necessary with all membership applications to the College, it is difficult for the Committee to act upon a candidate. This, in turn, leads to disappointment by those who are proposing the candidate. This disappointment can be avoided if those preparing the application follow the bylaws and gather the information necessary to make a complete application. Even though the candidate cannot be informed that he or she is under consideration, there are a number of ways to obtain the information. This includes the biographical information submitted to CLE programs, listings in the directories of various professional organizations, and electronic searches with respect to their writings, to name a few of the possible sources.

Good solid letters of recommendation are always helpful, particularly when they describe the candidate's participation professionally based on facts. Simply saying "Judge \_\_\_\_\_ would make a wonderful member" is simply not enough! Finally, we do respect the deadline set by the Chair of the Board of Regents and ask that you have the completed application to the Judicial Nominating Committee by that date.

Once we have all the applications, the Committee will undertake to make personal contacts in the area, review the submittals and make such other investigations as may be appropriate.

We thank all the members for their support of the nomination process. 

## Selection of Eleventh Class

By Merrill R. Francis

On October 18, 1999, invitations were extended to 45 prospective Fellows, including 5 Foreign Fellows, 6 Judges, 1 Emeritus Fellow and 33 who are United States attorneys and other professionals. Merrill R. Francis, Chair of the Board of Regents, forwarded invitations to the invitees who are United States Judges and professionals, and Daniel Glosband forwarded invitations to the invitees who are Foreign Fellows. The following accepted the invitation:

Marc Abrams, Esq.  
Willkie Farr & Gallagher  
New York, New York

Edmund J. Adams, Esq.  
Frost & Jacobs LLP  
Cincinnati, Ohio

Paul S. Aronson, Esq.  
Milbank, Tweed, Hadley & McCloy LLP  
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Harold J. Barkley, Jr., Attorney  
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Martin J. Bienenstock, Esq.  
Weil, Gotshal & Manges L.L.P.  
New York, New York

Honorable Joyce Bihary  
United States Bankruptcy Court  
Atlanta, Georgia

Professor Charles D. Booth  
Faculty of Law,  
University of Hong Kong  
Hong Kong, China

Janet L. Chubb, Esq.  
Jones Vargas  
Reno, Nevada

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Dominic DiNapoli, CPA  
PricewaterhouseCoopers LLP  
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James F. Dowden, Esq.  
Grobmyer, Ramsay & Ross  
Little Rock, Arkansas

Douglas S. Draper, Esq.  
Heller, Draper, Hayden & Horn, LLC  
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Arthur Andersen  
Salt Lake City, Utah

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Shearman & Sterling  
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Los Angeles, California

Yoine J. Goldstein, Esq.  
Goldstein, Flanz & Fishman  
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New York Law School  
New York, New York

Paul Heath, Q.C.  
Attorney at Law  
Hamilton, New Zealand

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Boston College Law School  
Newton, Massachusetts

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Chief Judge  
United States Bankruptcy Court  
Boston, Massachusetts

Frederick D. Holden, Jr. Esq.  
Brobeck, Phleger & Harrison LLP  
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Kevin Robert Huenekens, Esq.  
Maloney, Huenekens, Parks,  
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Richard M. Kremen, Esq.  
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Thomas E. Lumsden, CPA  
PricewaterhouseCoopers LLP  
San Francisco, California

Honorable Robert A. Mark  
Southern District of Florida  
United States Bankruptcy Court  
Miami, Florida

Richard J. Mason, Esq.  
Ross & Hardies  
Chicago, Illinois

C. Garth MacGirr, FCA FCIP  
(Retired)  
Toronto, Ontario Canada

Mark N. Polebaum, Esq.  
Hale and Dorr LLP  
Boston, Massachusetts

Barry W. Ridings  
Lazard Freres & Co. LLC  
New York, New York

Randy Rogers, Esq.  
Murphy Shenneman  
Julian & Rogers  
San Francisco, California

Ronald L. Rose, Esq.  
Dykema Gossett PLLC  
Bloomfield Hills, Michigan

Honorable Barry S. Schermer  
Eastern District of Missouri  
United States Bankruptcy Court  
St. Louis, Missouri

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Bush Ross Gardner Warren & Rudy, P.A.  
Tampa, Florida

Professor Robert M. Zinman  
St. John's University  
School of Law  
Jamaica, New York

## Educational Program Spring 2000



By Prof. Alan N. Resnick

The Educational Program at the Annual Meeting of the College was held on Saturday, March 18, 2000, at the Cosmos Club in Washington, D.C. The program was stimulating, informative, and enthusiastically received by 150 Fellows who attended the event. It featured eleven exceptional speakers – divided into three panels – who discussed important areas of bankruptcy and insolvency practice. Each Fellow attending the program received a program book that included detailed outlines, articles, and other materials on the topics discussed.

The program began with a panel discussion of *Troubled Company Acquisitions*, featuring Robert J. White of O'Melveny & Myers; David G. Heiman of Jones, Day, Reavis & Pogue; and David L. Resnick of Peter J. Solomon Company. The speakers, who have a wealth of transactional experience in this area, discussed strategy and pitfalls relating to asset acquisitions from financially troubled companies. In particular, the panelists focused on break-up fees, section 363 sales, sales under a chapter 11 plan, and buying claims as a strategy for acquiring a company in bankruptcy.

The second segment consisted of a presentation on the emerging area of *Cross-Border Insolvency*. The international

panel of experts was chaired by Richard F. Broude and included Gerold Herrmann, Secretary of the United Nations Commission on International Trade Laws (UNCITRAL), Bankruptcy Judge Sidney B. Brooks of the District of Colorado, Professor Bruce A. Markell of the University of Nevada at Las Vegas School of Law, and Professor Ian F. Fletcher of the University of London's Queen Mary & Westfield College. These experienced and scholarly panelists treated the Fellows to an informative introduction to the proposed new Chapter 15 of the Bankruptcy Code which is included in the pending House and Senate bankruptcy reform bills. They also discussed the American Law Institute's project on cross-border insolvency, UNCITRAL's model law, the European Union Convention on Insolvency Proceedings, and the impact of these developments on the recognition of foreign proceedings and the methods for handling concurrent insolvency proceedings.

The final presentation, entitled *Hot Topics*, began with a brief update on the status of bankruptcy reform legislation, and then turned to a discussion of important recent judicial decisions. The speakers included three outstanding bankruptcy practitioners, Marcia L. Goldstein of Weil, Gotshal & Manges; Mark E. MacDonald of MacDonald & Schuble, LLP; and Charles P. Normandin of Ropes & Gray. ☞

## Arrangements for Fall 2000 Meeting

By Suzanne A. Bingham

We are looking forward to the Fall 2000 All Fellows luncheon, in conjunction with the National Conference of Bankruptcy Judges, scheduled for Wednesday, October 18, 2000, in Boston at the Weston Copley Place Hotel. It appears most of the NCBJ meetings will be held in the Westin and some in the Marriott Copley Plaza Hotel. Following the luncheon, a meeting of the Regents and Circuit Admissions Councils will be held in circuit groups in the luncheon room. The Board of Directors and Regents will meet as usual in the morning of Wednesday, October 18. Also, a reminder of the Board of Directors dinner on Tuesday, October 17.

A new event for the College is a luncheon for NCBJ attendees. We will be hosting William H. Neukom, Executive

Vice President, Law and Corporate Affairs, Microsoft Corporation as our keynote speaker. The luncheon is scheduled for Thursday, October 19, 2000, so we hope Fellows will attend. So put this on your calendar!

For the 2001 Class we will hold the Induction Ceremony at a different time than usual due to the unavailability of the U.S. Supreme Court in the middle of March. The dates for the College Induction Ceremony and events in Washington, D.C., will be March 30-31, 2001. We also have moved to a more conveniently located hotel. The host hotel will now be the historic Mayflower Hotel on Connecticut Avenue NW, a short distance from the Metropolitan Club. It is a beautiful hotel and the rooms are magnificent! ☞

## Preview of Educational Program for Fall 2000

By Prof. Alan N. Resnick

The All Fellows Luncheon and Educational Program will be held on Wednesday, October 18, 2000, from noon until 2:00 P.M., at the Westin Copley Plaza Hotel in Boston, and promises to be an exciting and informative event. The topic for discussion will be "The Duty to Disclose Connections: How to Comply with Bankruptcy Rule 2014." The program will feature a panel of three distinguished experts, Hon. Mary F. Walrath, Bankruptcy Judge for the District of Delaware, Richard B. Levin of Skadden, Arps, Slate, Meagher & Flom LLP (Los Angeles), and Susan M. Freeman of Lewis & Roca LLP (Phoenix).

The speakers will discuss the duty of a professional to disclose connections with creditors, shareholders, other parties in interest, and the office of the United States Trustee, when seeking retention under section 327 or 1103 of the Bankruptcy Code.

There is widespread sentiment that a professional's obligation to disclose "connections" under Bankruptcy Rule 2014 is ambiguous and difficult to satisfy, especially in large cases with thousands of creditors and equity holders. Practitioners are especially concerned because of serious consequences that could result from a failure to comply with these disclosure requirements. The panelists will discuss the meaning of "connections" as that word is used in Bankruptcy Rule 2014. Is there a de minimis exception to the rule that all connections be disclosed? Suggestions and pitfalls regarding internal procedures used by medium and large firms in attempting to discover all connections, the duty to continuously monitor for conflicts, and the need to make supplemental disclosures during the case, also will be discussed. The panel also will comment on proposed rule amendments designed to improve Bankruptcy Rule 2014 and to make it more user-friendly for professionals. ☞

### Save the Dates Spring 2001 Induction Ceremony

Friday, March 30, 2001

Board of Directors Meeting  
Induction Ceremony,  
U.S. Supreme Court

Saturday, March 31, 2001

Educational Program and Luncheon,  
Dinner with the "Capitol Steps"  
as entertainment

## Piassick New Director

By Evelyn H. Biery



▲ Joel B. Piassick

At the All Fellows Meeting of the College in Washington, D.C., on March 17, 2000, Joel B. Piassick was elected to a three-year term as a director of the College. Joel is a partner at Kilpatrick Stockton L.L.P. in Atlanta, Georgia. He presently serves the College as chair of the Directory Committee. He served the Southeastern Bankruptcy Law Institute as President from 1977 to 1978. He was admitted to the Georgia Bar in 1965 after receiving his LL.B. from the University of Virginia Law School and his B.A. from Tulane University. ☞

## New Listserv Service

The American College of Bankruptcy is now on a Listserv Service and most College noticing will be sent by email or fax broadcasting for those that do not have email service. A Listserv is tricky. It is important that you use only the College email address to send a reply. If you wish to contact the College by email reply please send to college@amercol.org (Do not send email to notice@amercol.org). ☞

## Richard P. Carmody NCCJ Alabama State Chair



▲ Richard P. Carmody

In September Richard Carmody will become Alabama State Chair of the National Conference for Community and Justice, an organization that promotes inclusiveness and the reduction of prejudice. ☞

**American College  
of Bankruptcy's  
Web Site is  
Now On Line**

<http://www.amercol.org>

## Bankruptcy History Committee Report

By Hon. Mary Davies  
Scott



▲ Hon. Mary Davies  
Scott

The American College of Bankruptcy and the Biddle Library of the University of Pennsylvania School of Law entered into a historic agreement on March 18, 2000, at the annual meeting of the College. The agreement outlines the formal establishment of the National Bankruptcy Archives. The College also sent a check for \$20,000 to the library to provide matching salary funds for the full-time archivist who will be setting up this collection.

The College leadership has appointed Mary Scott, Leon Forman, Alan Resnick and Myron Sheinfeld to a planning committee which will propose protocols and structure for moving ahead with the National Bankruptcy Archives project. A larger advisory committee is envisioned which will ultimately serve as a formal liaison between the College and the Law Library. The planning committee will also develop protocols for the placement of the actual College archival materials (i.e., minutes, original copies of all newsletters, and any other appropriate records) as well as materials that come to the College from individual members and other organizations. Long range, this committee and the future advisory committee will be identifying and gathering

appropriate archival materials from individual College members and others, including organizations working in the field of bankruptcy. The committee will actively work to assist the College in the creation of an Endowment to raise funds to insure the continued viability of the National Bankruptcy Archives.

We received the following Letter from the Dean of University of Pennsylvania, addressed to the College:

*As the new Dean of the University of Pennsylvania Law School, I am tremendously excited about the opportunities that lie ahead. In these early days of my tenure, your dedication to Penn Law is especially meaningful to me. It is with great pleasure and pride that I thank you for your help in facilitating and establishing the National Bankruptcy Archives at the Biddle Library of the University of Pennsylvania Law School. The generosity of the American College of Bankruptcy, the National Conference of Bankruptcy Judges and the Association of Former Bankruptcy Judges has made it possible to establish this important collection.*

*Please accept my gratitude and that of our faculty and students. I look forward to a long and successful relationship with the American College of Bankruptcy on this important project.*

*Sincerely,  
Michael A. Fitts ☞*

## Fall 2000 Meeting

*Boston, Massachusetts*

**Tuesday, October 17, 2000**

Board of Directors and Regents Dinner

*Up Stairs at the Pudding*

**Wednesday, October 18, 2000**

*Westin Copley Place Hotel*

8:30 A.M.	-	12:00 P.M. Board of Directors Meeting
10:00 A.M.	-	12:00 P.M. Board of Regents Meeting
12:00 P.M.	-	2:00 P.M. All Fellows Luncheon
2:00 P.M.	-	4:00 P.M. Board of Regents Meeting - <i>continued</i>
2:00 P.M.	-	4:00 P.M. Committee Meetings

**Thursday, October 19, 2000**

*Westin Copley Place Hotel*

The NCBJ/College luncheon will be sponsored by the American College of Bankruptcy and will feature William H. Neukom, Executive Vice President, Law and Corporate Affairs, Microsoft Corporation.

## Law School Educational Program Report



▲ Hon. Roger Whelan

By Roger M. Whelan

The educational aims of the College have now been expanded and will include a major contribution to higher learning in the Bankruptcy and Insolvency area. In January of the Millennium, Richard Broude, a College Fellow, will conduct a College-sponsored program on Mass Torts at St. John's University School of Law in Brooklyn, New York. This is the first time that a law school course has been directed solely to this critical area of the law, and the College will now be able to actively sponsor and participate in the nation's first L.L.M. Bankruptcy Program. Prof. Robert M. Zinman, a newly inducted Fellow, is the director of this L.L.M. Program and is responsible for developing St. John's University School of Law as a "leading pillar of identity" in the Bankruptcy arena. Prof. Alan Resnick, the College's scholar in residence, will be responsible for coordinating and assisting in the College's sponsorship role.

This L.L.M. program at St. John's University School of Law is not like the customary 24 credit masters program, but rather is a comprehensive and challenging program that requires 30 credits and the submission of a thesis on a current bankruptcy issue. Several members of the Masters Program Advisory Board at St. John's are active College Fellows, and based on the number of applications and students enrolled in the first class (September 1999) this L.L.M. Program should be one of the bright educational lights in the Millennium.

The College has received the following letter from Prof. Zinman:

*Thank you for your letter indicating that formal approval has been given by the College for the sponsorship of Richard Broude's Mass Torts class in our L.L.M. in Bankruptcy program, and special thanks for the \$5,000 check!*

*As I mentioned on the telephone, support for the L.L.M. from the College is especially gratifying, given the important position its members play in the insolvency process. We very much appreciate*

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## On Line Committee

By Ronald N. Martin



▲ Ronald M. Martin

Through great efforts by chairman Raymond Shapiro, president Neal Batson, graphic designer Jon Milburn, webmaster Mich Turner, and executive director Suzanne Bingham the website is up and operating! Check out [www.amercol.org](http://www.amercol.org). Put it on your "favorites." It is only going to get better!

Almost as exciting is the fact that, after years of effort and cajoling, we have almost all Fellows' e-mail addresses so that we can communicate on-line and not only save massive amounts of money for the College but also communicate real time with a few keystrokes. This should make the entire College more responsive and bring us closer.

Our next step is the creation of an "extranet" to be used in conjunction with our webpage. What is an extranet, anyway? Well, it is a new tool for all the Fellows to be able to pose questions, give answers, post information for all of us. This tool has already been of tremendous use to in-house/outside lawyers who are working on massive cases. For example, Holland and Hart has set up a nationwide extranet for defense of all of the Phen-Fen cases, so that all counsel and clients can have the benefits instantaneously of new information as it develops. It is really a source of on-going knowledge management so that we can go to one place to capture all the best thinking and new materials in the bankruptcy field.

We will be starting it up soon as soon as Suzanne is able to complete a few pressing matters. ☰

## Colton and Abramowitz Co-Department Heads



▲ Neal Colton



▲ Art Abramowitz

Neal Colton and Art Abramowitz recently became co-chairs of Cozen and O'Connor's Bankruptcy, Insolvency and Restructuring practice. ☰

## Pro Bono Committee Report

By David T. Sykes



▲ David T. Sykes

As of the date this column is being written, two additional grant requests are being circulated among Pro Bono Committee members for approval. The Consumer Bankruptcy Assistance Project has received near-unanimous approval for a \$1,000 grant, and unanimous approval is anticipated for a \$1,000 grant to the Polk County (Iowa) Bar Association Volunteer Lawyers Committee.

Members of the Pro Bono Committee strongly encourage providers of pro bono bankruptcy services to submit grant requests. The one page form could not be easier to complete, and the process for approval is very simple to accomplish.

Yet we have had a relatively small number of applications since the inception of the College's Grant program.

Several organizations have contacted Committee members about grants; all of the organizations had appropriate qualifications to warrant grants, but, in spite of follow-up by Committee members, some worthy organizations have not yet submitted applications.

One of the qualifications for grant approval is that the organization seeking the grant have an educational need. The Polk County Volunteer Lawyers Project grant request has all of the attributes of an appropriate educational project. The application states:

### Proposed Educational Program

The purpose of conducting this proposed educational program is to recruit and train volunteer attorneys in order to increase the number of clients who receive pro bono assistance in bankruptcy. In 1999, only twenty-three clients were represented through the Polk County Bar Association Volunteer Lawyers Project in bankruptcies. The goal of this training would be to recruit thirty additional volunteer attorneys specifically trained to represent clients in bankruptcy proceedings. The training would be at no cost for those attorneys who agree to accept two pro bono referrals over the next year. If this goal were achieved, the number of clients served

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## Acknowledgements

*The American College of Bankruptcy would like to acknowledge and thank the following 2000 Patrons and Sponsors without whose help our educational sessions and events would not be possible.*

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Please note that this list is in progress of accepting additional Patrons and Sponsors.

## Minutes of Board Meeting Fall 1999

By Evelyn H. Biery

**AMERICAN COLLEGE OF BANKRUPTCY  
BOARD OF DIRECTORS MEETING  
OCTOBER 6, 1999  
APPROVED MARCH 17, 2000**

A meeting of the Board of Directors of the College was conducted on Wednesday, October 6, 1999, at the San Francisco Marriott, San Francisco, California. Members of the Board of Regents were invited to attend the meeting and to participate in the discussion on the future of the College. The following were in attendance: Raymond L. Shapiro, R. Neal Batson, Barbara A. Everly, Myron M. Sheinfeld, David T. Sykes, Bettina M. Whyte, Evelyn H. Biery, Merrill R. Francis, John A. Barrett, Susan M. Freeman, Leonard H. Gilbert, Stuart E. Hertzberg, David A. Lander, Louis W. Levit, Hon. Ralph R. Mabey, Ronald M. Martin, Prof. Grant Newton, Jerome Shulkin, Paul M. Singer, Richard S. Toder, Hon. Roger Whelan, Leon S. Forman, William J. Perlstein, Daniel M. Glosband, Prof. Alan Resnick and Suzanne Bingham.

Merrill Francis, Chair of the Board of Regents, presented the report on the procedures for notifying those who are being offered membership in the College, stressing the need for confidentiality.

Daniel Glosband, Chair of the Foreign Fellows Committee, presented the report on the nominations for Foreign Fellows.

Leonard Gilbert, Chair of the Judicial Fellows Committee, presented the report on the nominations for Judicial Fellows.

Suzanne Bingham, Executive Director, reported that the Year 2000 Induction Ceremony will be at the Great Hall of the Supreme Court once again. The College is outgrowing the Cosmos Club and the Metropolitan Club; consequently, the College will seek a new place for the Spring 2001 meeting and dinner. At the Corcoran Gallery in March of 1999 there were 281 in attendance. For the educational program there were 142, for dinner 191, for the bus tour 22 and for the Holocaust Museum tour 52.

Leon Forman, Scholar-in-Residence, reported on the educational program. The registration was the highest ever. As of November 1, Prof. Alan Resnick will become the Scholar-in-Residence for the College. Because of uncertainties in the pending legislation, the planning for the March 2000 educational program will be postponed until closer to the meeting date.

On motion duly made and seconded,

Leon Forman was thanked for his outstanding service to the College of Scholar-In-Residence. The motion passed by unanimous vote.

David Sykes, Chair of the Pro Bono Committee, reported on three additional grants submitted for the approval of the board. He indicated there is funding for ten grants, there are two pending approval by the committee, and three more may be submitted in the near future.

On motion duly made and seconded, the board authorized, for the 1999-2000 year, the expenditure of \$5,000 for organizations providing pro bono services in the consumer bankruptcy area, with authority to the committee and the president to approve grants in excess of \$5,000 to deserving organizations and with particular emphasis on newly-organized programs.

Paul Singer suggested that the Fellows make recommendations for grants to pro bono organizations in their respective circuits and be involved in the award of the funds. David Sykes indicated he will also continue to work with the president to complete the allocation and distribution of the authorized expenditures for the 1998-1999 year. The information will be put on the College web site.

Ray Shapiro, Chair of the College, reported that the sponsorships have increased from prior years. He suggested the College use some of its funds to augment the educational program and to sponsor programs outside the College, in order to make it clear to the patrons and sponsors that they are making contributions to bankruptcy education in a large venue. Paul Singer suggested there might be a permanent endowment for the educational program.

Bettina White, Treasurer, provided the financial report of the College. She indicated the College has succeeded in its goal of having one year of operating expenses on hand.

On motion duly made and seconded, the budget, as modified, was approved.

On motion duly made and seconded, Charles Vihon was moved to emeritus status pursuant to the provisions of Article IV.6.c. of the College Bylaws.

Hon. Mary Davies Scott, Chair of the Bankruptcy History / Archives Committee, presented the report of the Committee, which has as its purpose retrieving and preserving historical papers, documents, books and other memorabilia related to the history of bankruptcy and insolvency.

On motion duly made and seconded, the College (a) resolved to support the designation of the University of Pennsylvania as the official repository for the History/Archives Project and (b) authorized the officers of the College to negotiate a contract with the appropriate persons and entities.

Judge Scott reported that the National Conference of Bankruptcy Judges and the Association of Former Bankruptcy Judges have each approved a contribution of \$5,000 for the History/Archives project and recommended that the College sponsor a luncheon during the Year 2000 meeting of the National Conference of Bankruptcy Judges, with any net proceeds being donated to the History/Archives Project. The recommendation was taken under advisement, to be presented to the members of the College at the luncheon meeting.

On motion duly made and seconded, subject to any discussion at the luncheon meeting of the College, the board directed the officers to work with the National Conference of Bankruptcy Judges to sponsor a luncheon during the Year 2000 meeting, on a one-year trial basis, with any net proceeds to be donated to the History/Archives Project and with the details to be worked out between Neal Batson as president of the College and Judge Scott as incoming president of the NCBJ.

Hon. Ralph Mabey, Chair of the Liaison Committee, reported on the work of the committee. He indicated the committee favors working with Judge Scott on the luncheon sponsorship.

Evelyn Biery, Chair of the Publications Committee, reported on the work of the committee and the possible sponsorship of the *College Columns* by Matthew Bender/LEXIS Publishing.

Ray Shapiro, in the absence of Joel Piassick, reported on the work of the Directory Committee, indicating that the work on the directory was nearing completion.

Ray Shapiro, in the absence of Mickey Sheinfeld, reported that the focus groups on bankruptcy reforms will be reactivated and that Mickey Sheinfeld will continue to chair the committee.

Paul Singer, Chair of the Future of the College Committee, reported on the work of the committee. He indicated that the committee was appointed in April and that the membership of the committee represented a diverse group. The complete report of the committee is attached to these minutes as an addendum. [Because the full report was published in an earlier issue of the *College Columns*, only a synopsis will be reprinted here.]



Paul Singer reported that the median age of the College is 55.5 years and that the Future of the College Committee recommended that the College

- (a) Keep the same standards on membership as are presently in place but institute breakout sessions for Fellows to provide names of prospective Fellows at the meeting of the National Conference of Bankruptcy Judges;
- (b) Encourage circuits to have social or collegial meetings individually or together;
- (c) Conduct annual meetings, for the present time in conjunction with the meetings of the National Conference of Bankruptcy Judges;
- (d) Emphasize pro bono work, making it a permanent part of the College function;
- (e) Continue to publish the *College Columns* in hard copy to insure that Fellows of the College remain well informed;
- (f) Continue the educational program, including a history project;
- (g) Ensure that the name of the College is affixed to projects that are sponsored by or affiliated with the College;
- (h) Maintain the present model on educational programs;
- (i) Engage in outreach projects, in keeping with the mission statement of the College;
- (j) Explore, alone or in participation with others, a program regarding the electronic filing of bankruptcy pleadings; and
- (k) Maintain a permanent Future of the College Committee or a similar committee.

Neal Batson, President of the College, indicated he would work with Paul Singer to prepare a letter that would be forwarded to the membership of the College, along with the notification of the March 2000 meeting, to provide a report to the Fellows and to solicit the further recommendations of the Fellows.

Ray Shapiro recommended that the budget be modified by adding a \$5,000 amount for the Spring 2000 luncheon.

On motion duly made and seconded, the budget increase was approved.

On motion duly made and seconded, the minutes of the March 12, 1999 meeting of the board of directors were approved as corrected.

There being no further business to come before the meeting, the meeting was adjourned.

Evelyn H. Biery, Secretary ☰

## Procedures for Foreign Fellows

*continued from page 2*

the University of Montreal, numerous articles on insolvency law topics and leadership positions with the Bar of Quebec. In addition, Yoine has been very active in community affairs and has received an award for outstanding volunteer leadership.

No doubt the only Fellow to have graduated from Pakuranga College and Auckland University, Paul Heath emigrated to New Zealand from Coventry, England, as a twelve year old. After three years as an Investigating Solicitor with the New Zealand Department of Justice, Paul joined the Hamilton firm of Stace Hammond Grace and Partners, where he specialized in insolvency, commercial litigation, arbitration and dispute resolution until he ended his association in 1998 to accept an appointment as Queen's Counsel. This honor necessitated the commencement of practice as "barrister sole." From July 1997 until May of 1999, law practice shared time with duties as a consultant to the New Zealand Law Commission responsible for projects on electronic commerce and cross-border insolvency. In May of 1999, Paul was appointed as a Commissioner of the Law Commission. He has been active in the New Zealand Law Society and the International Bar Association, has been admitted as a Barrister of the High Court of Australia and has lectured and published in New Zealand, Canada, Australia and the U.S.

C. Garth McGirr, born in Niagra Falls, Canada, has been a chartered accountant since 1960 and an insolvency specialist since 1968. He rose in the Price Waterhouse ranks until he became head of the firm's national insolvency practice and a member of its worldwide Insolvency Advisory Group. Outside the firm, Garth was elected a Fellow of the Institute of Chartered Accountants of Ontario and also of the Canadian Insolvency Practitioners Association. Internationally, Garth was the first non-American to be elected as a Director of the American Bankruptcy Institute and is a past President of INSOL International. He has held numerous leadership positions in Canadian insolvency and accounting organizations, served as a member of the Licensing Board of the Superintendent of Bankruptcy and has been a frequent lecturer and author on insolvency matters.

His practice has been highlighted by assignments to liquidate Canada's first failed bank since 1923, to liquidate a major property and casualty insurer and to advise the Government of Jamaica on reorganizing its financial sector.

Last among the year 2000 Foreign Fellows (by alphabet only) is Michael Steiner, the head of the Insolvency and Corporate Reconstruction group at London's Denton Wilde Sapté. A solicitor since 1964 and an insolvency specialist since the early 1970s, Michael's professional career includes representation of the administrators of Maxwell Communications Corporation, bondholders in the Barings Administration, the Department of Transport in the Olympia & York/Canary Wharf matter and the Czech Government on its insolvency legislation. He has been active in the Creditor's Rights and Insolvency Committee of the International Bar Association and the Society of Practitioners of Insolvency, has served as Chairman of the City of London's Solicitor's Society Insolvency Subcommittee, has been an Adviser to the Russian Federal Ministry of Bankruptcy and has been a member of the Lord Chancellor's Insolvency Rules Advisory Committee. ☰

## Hon. Shinjiro Takagi Retired from Court



▲ Hon. Shinjiro Takagi

Hon. Shinjiro Takagi recently retired as Judge of the Supreme Circuit Court in Tokyo, after serving on the Court for three years. Prior to that time, he was Chief Judge of several other courts, after serving as Chief of the Tokyo Lawyers Association Bankruptcy Law Department. A prolific writer, he has published several books, including *Company Liquidations*, *Basic Knowledge: Insolvency- Rights, American Federal (USA) Bankruptcy Law, Experiential Bankruptcy, Private Liquidation Procedures* (joint author), and *U.S. New Bankruptcy Outline*. We congratulate Judge Takagi on his illustrious career and wish him well in his retirement from the Court. ☰

## Executive Director's Report



By Suzanne A. Bingham

As we move into Spring there are many things happening. First, I am happy to report that we had another beautiful and

successful Induction Ceremony at the Supreme Court. The educational panel at the Cosmos Club was most informative, thanks to our Scholar-in-Residence Prof. Alan Resnick.

And our entertainment following dinner at the Metropolitan Club was lively and seemed to appeal to most in attendance. This year we retained a bus service to and from the U.S. Supreme Court, and we now plan to repeat this service for future inductions. The College was very pleased to have Gerold Herrmann, Secretary of UNCITRAL, serve as the Induction Ceremony keynote speaker. He carried a serious and informative but lively message. There was a full house at the Induction Ceremony, and with such a large crowd, we found that we will need to improve the sound system next year. The Distinguished Service Award was given to Jerry Smith of Lewis and Roca LLP, Phoenix, Arizona. Congratulations Jerry, you are most deserving of this award!

Please note that we have new dates for the 2001 Class Induction Ceremony and events due to the Supreme Court's unavailability in the middle of March as we are accustomed too. Mark your calendars for March 30-31, 2001. Our new host hotel for 2001 will be the Mayflower Hotel, which is closer to the Metropolitan Club and shopping for those spouses! Also, mark your calendars for the October 2000 NCBJ events in Boston, which include the Board of Directors and Regents dinner on Tuesday, October 17, and the Board of Directors and Regents meetings the morning of Wednesday, October 18, followed by the All Fellows Luncheon and Circuit Admissions Council meetings. We are sponsoring the keynote speaker this year for the attendees of the NCBJ Luncheon which will be held on Thursday, October 19.

Hon. Mary Davies Scott, a Fellow of the College and the NCBJ President for 2000, has formally initiated the signing of the agreement between the University

of Pennsylvania and the College to develop the College Archives. The signing ceremony was held during the educational program at the Cosmos Club. Judge Scott deserves great praise for her efforts in making this happen. For those who wish to send materials, Judge Scott has indicated an announcement will be made soon on where to forward the materials for the Archives.

I wish to convey a sincere thank you to *Collier on Bankruptcy*, now part of *LEXIS Publishing*, for contributing to the expense of the College Columns and contributing to the cost of the manuals for the educational session at the Cosmos Club. Thank you, Mark Diamond and Ellen Seigel!

For those Fellows who attended the Induction Ceremony, we now have extra copies of the photographer's contact sheets with all the photographs. If you wish to be put on the list to review the contact sheets and order directly from the photographer, please email or fax us a message with the name and address where to forward them.

By now all Fellows should have received their 2000 College dues renewals invoices. If you have not, please contact us at headquarters at 703.934.6154. We hope you will forward your dues as soon as possible.

Have a wonderful Summer. Some of us will be busy watching and waiting for bankruptcy reform legislation. ☰

## Chairman's Report

*continued from page 1*

receiving the Distinguished Service Award. This is a well-deserved honor. Jerry has made lasting contributions to the success of the College and was instrumental in elevating us to a self-sufficient organization. He has also devoted his professional energies to enhance the bankruptcy process, and this recognition is just a token of our appreciation for his commitment to excellence and setting standards for all of us to follow.

I personally thank David Lander for his invaluable service as a Director. David's place on the Board will be filled by Joel Piassick.

Our March meetings in Washington, D.C., were well attended and successful. Come join us in October in Boston. We are exploring many new ideas to expand the role of the College to better serve our members. We expect to announce several of them at the October meetings. Look forward to seeing you then. ☰

## Five Fellows Recently Sworn In As Bankruptcy Judges

Three Fellows of the College took the bench this year.

Hon. Thomas L. Ambro was a director at Richards, Layton & Finger, P.A. in Delaware. He now serves on the Third Circuit Court of Appeals.

Hon. Randolph J. Haines was a partner at Lewis and Roca, LLP in Phoenix. He now serves on the United States Bankruptcy Court for the District of Arizona.

Hon. Barbara J. Houser was a shareholder at Sheinfeld, Maley & Kay P.C. in Dallas. She now serves on the United States Bankruptcy Court for the Northern District of Texas.

Hon. Cecelia G. Morris was Clerk of the Court of the United States Bankruptcy Court in the Southern District of New York. She now serves on the United States Bankruptcy Court for the Southern District of New York.

Hon. Michael G. Williamson was a partner at Kay, Gronek & Latham, LLP in Orlando, Florida. He now serves the United States Bankruptcy Court for the Middle District of Florida. ☰

## Law School Educational Program Report

*continued from page 6*

*the College's sponsorship initiative and thank you very much for the role you played in proposing it. I hope that College members will visit the school and allow us to show them first hand what we are doing and to introduce them to our outstanding and remarkable students. My direct dial number is 718.990.6646. I will be happy to arrange a convenient time to get together.*

*As you know, we prepared an announcement of the College sponsorship, which is being inserted in every catalogue. I am enclosing several copies of the announcement for your report. When our new catalogue is prepared, we will include the information directly and prominently in the text.*

*I am looking forward to seeing you in March. Thanks again.*

*Sincerely,  
Robert M. Zinman  
Professor of Law and Director,  
L.L.M. in Bankruptcy*

## Distinguished Service Award Recipients

By John A. Barrett



▲ Jerry Smith

This year's recipient of the American College Bankruptcy Distinguished Service Award is Gerald (Jerry) Smith.

Jerry was born in the State of Kansas and graduated from Kansas State University. He received his law degree from NYU and upon graduation moved to Arizona and has practiced continuously with his law firm Lewis & Rocha. Jerry was an outstanding honor student both as an undergraduate and as a law student.

Early in his career, he was a member of the Presidential Commission in the 1970s for the Study of the Bankruptcy Act as a report which has become the basis of the current law as enacted.

Jerry has taught, lectured and practiced extensively during his entire 35 plus years of practice. He is a member of the Rules Committee and has been active in the American Law Institute's study on professional responsibility and ethics and specifically as applied to bankruptcy. He is a member of the National Bankruptcy Conference and an active participant for the ABI, ABA and bankruptcy groups.

Jerry was one of the initial founders of the College and as Chairman of the College guided it to prominence as a standalone organization recognizing those members of the profession who have practiced, achieved and contributed significantly to the law of insolvency. His own practice and contributions are the high standard mark to which every Fellow should aspire.

He is a friend to every Fellow and an outstanding lawyer, father and husband. It is with great pleasure that the College recognizes Jerry for all of his contributions through his many years of practice and his many contributions to the College. 🏛️



## Elvis Has Left The Building!

Kaaran Thomas in Las Vegas



▲ Kaaran Thomas

Last May my husband's arthritis propelled me to a decision I had secretly longed to make for years — leave flat, humid (dull?) Houston for rugged, challenging (sparkly?) Las Vegas. The professional change was equally dramatic — from established partner in a megafirm (Vinson & Elkins - 600 plus) to an unknown quantity in a mini firm (Beckley, Singleton - 21). The farewell sign on my Houston office said, "Elvis has left the building." Would she have to come crawling back?

Six months later, buoyed by glorious climate and good-humored well-wishes of colleagues (especially fellow College members) I entered the Nevada bar. My small firm (on Las Vegas Boulevard) is free of the conflicts that plague megafirms. Local and national business is booming. Best of all, I have a front row seat at Las Vegas' debut as a major commercial center, with all of the work-out and bankruptcy issues of a booming economy just beginning to realize upon its business and professional potential.

To the many of you who kept up my spirits in the interim with emails, letters, phone calls and countless Elvis stories, thank you. Thank you very much.

— Kaaran Thomas

## Pro Bono Committee Report

continued from page 6

by the PCBA VLP would increase by approximately ten percent (10%).

The following is a tentative description of the proposed training program and anticipated costs.

### A. Continuing Legal Education Program

7:30 A.M. - 7:45 A.M.	Registration
7:45 A.M. - 8:00 A.M.	Welcome and Opening Remarks Carol Burdette, Program Director, PCBA Volunteer Lawyers

### Project

8:00 A.M. - 10:00 A.M.	Bankruptcy in a Nutshell Anita Shodeen, J.D.
10:00 A.M. - 10:15 A.M.	Break
10:15 A.M. - 11:00 A.M.	View from the Bench Hon. Lee Jackwig
11:00 A.M. - 12:00 noon	Forms, Filings, etc.
12:00 noon - 1:30 P.M.	Lunch (On Your Own)

### B. Software training for attorneys and support staff

1:30 P.M. - 4:30 P.M.

### Anticipated Educational Program Costs

The cost of the educational program is divided into two parts. The anticipated cost of the Continuing Legal Educational Program is approximately \$500 which would be used for the distribution and printing of the registration brochure and printing of training materials. The second portion of the educational program expense is the purchase of bankruptcy software. The approximate cost of the West law software package is approximately \$500. The software would be used for demonstration purposes in the seminar as well as making clerical support for preparation of forms available through the Polk County Volunteer Lawyers Project for attorneys who do not have access to bankruptcy software. The total grant request for both portions of this proposed project is one thousand dollars (\$1,000).

This is typical of the requests the Committee receives. The purposes served by the organization are laudable, and the Committee is delighted to recommend approval of a grant request such as this one. Spread the word! 🏛️

## Year 2000 College Spring Meeting and Induction of Class 11



*Leonard Gilbert Introducing  
Class 11 Induction Speaker*



*Induction Keynote,  
Dr. Gerold Herrmann,  
UNCITRAL*



*Great Hall of the Supreme Court Class 11 Induction Ceremony*



*Neal Batson, President, and  
Dr. Gerold Herrmann in discussion*

## Educational Program



*Educational Program Registration*



*Prof. Alan Resnick, Scholar-in-Residence,  
Opening Remarks*



*Cross Border Panel*



*Hot Topics Panel*



*Lighter Moment During Panel Session*



*Troubled Company Acquisitions Panel*



*Attentive Fellows in Attendance During Panel Sessions*

## Establishment of The National Bankruptcy Archives



*Leon Forman and Prof. Charles Mooney Before Official Signing of Agreement*



*Raymond Shapiro Signing Official Agreement with the University of Pennsylvania*



*Neal Batson Signing the Official College Archives Agreement with History/Archives Committee Chair Judge Mary Davies Scott in Attendance*

## Dinner Event and Distinguished Service Award Presentation



*Jerry Smith Honored by John Barrett as Recipient of the Year 2000 Distinguished Service Award*



*Jerry Smith and Prof. Larry King Distinguished Service Award Recipients, Year 2000 and 1997*



*The Birthday Gentlemen, Mickey Sheinfeld and Leon Forman, with Mickey's Wife, Christina, Who Assisted in Providing Musical Entertainment During the Evening*

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