

College Columns

News and Views from The American College of Bankruptcy

Publications Committee Report



By Evelyn H. Biery

▲ Evelyn H. Biery My thanks to the stalwart members of the Publications Committee, including Paul Fish, Tim Klein, Ron Peterman, Bob Rubin and Wes Steen, who have worked closely with me on projects for the Publications Committee.

(a) Paul Fish and I have temporarily suspended the collection of selected articles to be republished in a compendium of "The Best of the Best." Because the College is seeking sponsorships for the Induction Ceremony and other efforts of the College, we intend to suspend this very expensive project. If anyone has a suggestion for a sponsor for this project and can assure the Publications Committee that the sponsorship will not detract from the other sponsorships for the College, I would be pleased to have that information.

(b) If you would like to interview a person of national prominence in the bankruptcy field for future articles such as the interview with Jerry Patchan that appeared in the September 1995 edition of the College Columns, please let me

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President's Report

By Gerald K. Smith



▲ Gerald K. Smith

The Induction Ceremony and Annual Meeting of the College will take place March 7-8, 1997. Our Executive Director, Suzanne Bingham, and our Scholar-in-Residence, Leon Forman, have spent a great deal of time and effort in making the arrangements for what will prove to be a wonderful occasion. For the first time, we will have an educational program followed by supper at the Metropolitan Club.

Suzanne Bingham has invited a number of honored guests to the Induction. We will not know for some time how many will accept, but the invitees include the Senators and members of Congress from the inductees' states, House and Senate Judiciary Committee Members and Staff, Supreme Court Justices and Supreme Court Justices' secretaries and law clerks, members of the Judicial Conference Bankruptcy Rules Committee, officials of the Administrative Office of the U.S. Courts, officials from the Bankruptcy Division, and Executive Office of the U.S. Trustee. The Induction will be held in the Great Hall of the Supreme Court, followed by a reception in the East and West Conference Rooms of the Supreme Court. The next day, at

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Scholar-in-Residence:

Leon S. Forman
Philadelphia, PA

Publications Editor:

Evelyn H. Biery
Houston/San Antonio, TX

Executive Director:

Suzanne Bingham

American College of Bankruptcy
11350 Random Hills Rd., Suite 300
Fairfax, VA 22030-6044
(703) 934-6154 • Fax: (703) 802-0207

All Fellows Meeting

By Wilbur G. Silberman

October 16, 1996

The All Fellows Meeting of the American College of Bankruptcy was conducted on Thursday, October 16, 1996, at the Marriott Hotel, San Diego, California. The meeting began with introductory remarks from Chair, Gerald Smith, who furnished a history of the College, mentioning the contributions of past officers, including Dick Gitlin, Hon. William L. Norton, Jr., Ed Creel, and Harry Dixon. Chair Smith stated that these officers were instrumental in the formation and growth of the College and that the College is now completely independent from the American Bankruptcy Institute.

Chair Smith then introduced Suzanne Bingham, Executive Director, who reported on the transition from the American Bankruptcy Institute, the induction ceremony scheduled for March 7, 1997, and various legislative matters. She reported that there will be press releases for matters pertaining to the College, as well as individual press releases for each of the 1997 Inductees.

Brady Williamson and Hon. Robert Ginsberg presented a report on the Bankruptcy Review Commission. Judge Ginsberg reported that Brady Williamson maximized the resources of the Bankruptcy Review Commission, obtained the funding for the Commission, and provided exemplary leadership for the group. Brady Williamson expressed the thanks of the Commission to Gerald Smith and Suzanne Bingham and special thanks for the submissions by Leon Forman, which Brady Williamson said were especially beneficial. Brady Williamson recommended that the College members become involved in the legislative process and elevate the level of interest of the legislators who have a desire to become involved in bankruptcy matters. He reported that the Commission would meet in San Diego during the week of October 16 and that the Commission had met for 1-1/2 days nearly every month and was making decisions every month. He indicated that the Commission has taken the position that a mandatory stop at the District Court is neither required by Northern Pipeline nor beneficial. The Commission will continue to spend a considerable amount of time on consumer bankruptcy and small

business bankruptcy cases, including single asset cases. In response to a question from Hon. Leif Clark, Brady Williamson indicated that there may be changes recommended to the judicial training process and also changes suggested to the Rules. Judge Ginsberg said the Committee has not yet decided what approach to take with regard to the Rules or judicial training. Leon Forman asked whether the Commission report might include recommendations on the operation of the United States Trustee system, and Brady Williamson responded that it might. Neal Batson said that Leon Forman had submitted the report of the College and Brady Williamson said that the Commission has already implemented some of the proposals. Neal Batson indicated that the College would therefore reinstitute the College Bankruptcy Review Commission Focus Groups and that the reports from the reinstated Focus Groups would be due in March of 1997. In addition, the Focus Groups may be increased from six to eight to parallel the Commission Focus Groups. Neal Batson asked that those who have not yet served indicate a willingness to serve on these Focus Groups, especially those with experience and interest in consumer cases.

Peggy Sheneman reported on the work of the Budget Committee, stating that the goal is to make sure that the College members receive value for their dues. The members of the Budget Committee are Peggy Sheneman, Raymond Shapiro and Neal Batson. The expenses of the College include the administrative fees of the Executive Director, the induction ceremony and Spring Meeting in Washington, D.C., a limited contribution to the History Project, and the publication of the College Columns. Treasurer Sheneman also provided specific information on income and expenses, including incidental expenses for the Pro Bono Committee and the On-Line Committee. Treasurer Sheneman reported that, with the maturity of the organization, there will be an attempt to make every meeting self-funding.

Leon Forman reported on the educational program for the Spring Meeting, which will begin at approximately 9:00 a.m. on Saturday and continue until approximately 4:30 p.m.. The first presentation will be on Article 9 of the Uniform Commercial Code, focusing on the interrelationship between

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Induction Ceremony

Friday, March 7, 1997

Location:

The Great Hall of the Supreme Court of the United States
One First Street, NE
Washington, D.C. 20543

Dress: Black Tie Optional

There will be limited parking on Maryland Avenue and East Capitol Street. Please use the Maryland Avenue entrance.

6:00-7:00 p.m.

Inductees please arrive for photo session.

7:00-7:45 p.m.

Induction ceremony will take place in the Great Hall of the Supreme Court. The keynote speaker will be announced at a later date.

8:00-9:30 p.m.

Reception to follow in the East and West Conference Rooms of the Supreme Court.

College Meetings

Saturday, March 8, 1997

Location:

The Cosmos Club
2121 Massachusetts Avenue, N.W.
Washington, DC 20008
Telephone: (202) 387-7783

7:30-9:30 a.m.

Continental Breakfast

8:00-9:00 a.m.

College Committee Meetings (rooms to be announced)

Educational Program

The Powell Room

9:00-10:30 a.m.

Proposed UCC Article 9 Changes and Bankruptcy Issues

Panelists

Professor Charles Mooney
University of Pennsylvania
Law School, Philadelphia, PA
Professor Elizabeth Warren
Harvard Law School,
Cambridge, MA
Professor Lynn LoPucki
Cornell Law School, Ithaca, NY

10:30-10:40 a.m.

Coffee Break

10:45-1:15 p.m.

Strategies and Tactics in Chapter 11

Panelists

Harvey R. Miller, Esquire
Weil, Gotshal & Manges,
New York, NY
Leonard Rosen, Esquire
Wachtell, Lipton, Rosen &
Katz, New York, NY
Bernard Shapiro, Esquire
Murphy, Weir & Butler,
Los Angeles, CA

Moderator

Professor Lawrence P. King
New York University School
of Law, New York, NY

1:15-2:30 p.m.

Lunch and All-Fellows Meeting
Members New Dining Room

2:30-3:30 p.m.

National Bankruptcy Review
Commission Update

Panelists

Brady C. Williamson, Esquire
Chairman, Washington, DC
Honorable Robert E. Ginsberg
Vice-Chairman, Chicago, IL

3:30-4:30 p.m.

Perspective From the Bench

Panelists

Honorable Lisa Hill Fenning
Los Angeles, CA
Honorable Paul Mannes
Greenbelt, MD
Honorable John D. Schwartz
Chicago, IL

Moderator

Myron M. Sheinfeld, Esquire
Sheinfeld, Maley, & Kay -
Houston, TX

Dinner Event

Saturday, March 8, 1997

Location:

The Metropolitan Club of the
City of Washington
1700 H Street, NW
Washington, DC 20006
Telephone: (202) 835-2500

Dress: Business Suits/
Cocktail Dress

7:00-8:00 p.m.

Reception - Metropolitan Club

8:00-9:30 p.m.

Dinner and presentation of the
Distinguished Service Award
Metropolitan Club

9:30 p.m.

Performance by the Capitol
Steps

*Please RSVP prior to February
20, 1997 to*

Suzanne Bingham

American College of
Bankruptcy
11350 Random Hills Road,
Suite 800
Fairfax, Virginia 22030-6044
Telephone: (703) 934-6154
Facsimile: (703) 802-0207



Acknowledgements

By Gerald K. Smith

The American College of Bankruptcy would like to acknowledge the following Fellows and firms without whose help our first educational session and dinner events would not have been possible. We would first like to thank Murray Drabkin for sponsoring the College events at the Cosmos Club. We also have John A. Barrett to thank for supporting the College at the Metropolitan Club.

Contributions to date of the Patrons and Sponsors listed below are instrumental in assisting the College in sponsoring the 1997 Spring educational and dinner events and we are grateful for their support.

Patrons

Ernst & Young, L.L.P.
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- Southfield, Michigan
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- Chicago, Illinois
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- San Francisco, California
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- Houston, Texas
Sheppard, Mullin, Richter &
Hampton
- Los Angeles, California

Executive Director's Report

By Suzanne A. Bingham



▲ Suzanne A. Bingham

The American College of Bankruptcy Induction ceremony is scheduled for Friday, March 7 and it is exciting to experience so much enthusiasm and appreciation from the inductees. As each inductee was personally contacted to provide a welcome to the College and information concerning the induction, it was apparent how prestigious the College has become since its founding in 1989. I feel privileged to have the opportunity to serve as Executive Director of such an outstanding organization.

Along with the College Fellows, inductees, their family members and guests, members of Congress from the inductees' states will be invited to the Induction ceremony. Also invited are members and staff of the Senate and House Judiciary Committees which handle bankruptcy issues; members of the Judicial Conference Bankruptcy Committee; high ranking officials of the Administrative Office of the U.S. Courts and the Executive Office of the U.S. Trustee program; the Supreme Court Justices, their law clerks and administrative secretaries. It should be an interesting evening.

The first educational program of the College is scheduled for Saturday, March 8 at the Cosmos Club and is expected to be a huge success due to the program topics and well-known academicians, judges and lawyers on the various panels. This first-time effort includes "Proposed UCC Article 9 Changes and Bankruptcy Issues," "Strategies and Tactics in Chapter 11," an update from the National Bankruptcy Review Commission, and "Perspective from the Bench." The College is applying for Continuing Legal Education (CLE) and Continuing Professional Education (CPE) credits in states specified by College attendees. It is estimated that the program will result in 7 CLE and CPE credits, although this will vary depending on states requirements.

The Saturday, March 8 dinner is to be held at The Metropolitan Club of the City of Washington which is also expected to be a big hit. Not only will the dinner be hosted in one of the most historical buildings in Washington, but we have a special night planned. Brady Williamson, Chairman of the National Bankruptcy Review Commission, will address the attendees and will be followed by the Capitol Steps. A little history on the Club: The Metropolitan Club was established in 1863 at the height of the Civil War by six officials of the Treasury Department and continues to function as a successful private club after nearly 134 years. Did you know Newell Blair, a College Fellow, has been a member of the Metropolitan Club for 50 years!

For the first time in College history, the Board of Directors approved contributions from the College membership to assist in funding special events. The two categories included Patrons and Sponsors. We wish to thank those that contributed to the 1997 events and educational program. The names of the contributors are listed in the College Columns.

It will not be long before the College establishes a means of communicating among members. A possibility under consideration is a World Wide Website on the Internet. Ron Martin, chair of the On-line Committee is devoting a lot of hard work toward our goal of enabling Fellows to communicate with each other and as a group. Stay tuned for updates.

The administration of the College is operating smoothly and smooth sailing is expected ahead. The College Focus Groups and committees continue to work diligently and focus on issues of importance to the insolvency community.

I look forward to meeting the new inductees and other Fellows of the American College of Bankruptcy during the upcoming March events. Be sure to send in your registration form as soon as possible for purposes of early registration so as to prevent last minute confusion. ☪

Focus Groups

By Neal Batson

At the October 1996 meeting of the College it was decided that the Focus Groups which had previously been formed in the Fall of 1995 should be revived for the purpose of considering certain proposals that are being considered by the National Bankruptcy Review Commission (the "Commission") Working Groups. The College Focus Groups (and their Chairs) which correspond to the Working Groups of the Commission are as follows:

- Focus Group 1** Ronald M. Martin
- Mass Torts, Future Claims
- Focus Group 2** Gerald F. Munitz
- Jurisdiction, Procedure & Transnational
- Focus Group 3** Isaac A. Scott, Jr.
- Service, Ethics
- Focus Group 4** Raymond L. Shapiro
- Chapter 11
- Focus Group 5** David T. Sykes
- Government
- Focus Group 6** Richard S. Toder
- Small Business, Partnerships, Single Asset Realty
- Focus Group 7** Jennie Deden Behles
- Consumer Bankruptcy

During the last several months the Focus Groups have been discussing the issues which are being considered by the Commission. Recently, the Focus Groups completed written reports of their deliberations. The results of the membership poll will be announced at the March 8, 1997, meeting in Washington, D.C. and will then be shared with the Commission. ☪



Selection of Eighth Class

The Eighth Class of the College is composed of 40 Fellows, including five Fellows from outside the United States.

FOREIGN FELLOW NOMINEES

Hon. Justice James M. Farley
Ontario Court of Justice
Osgoode Hall
130 Queen Street West
Toronto, Ontario M5H2N5
CANADA

Ronald de Ruuk, Partner
Stibbe Simont Monahan Duhot
Stibbetoren Postbus
P.O. Box 75640
Strawinskylaan 2001
1070 AP AMSTERDAM
THE NETHERLANDS

Dr. Manfred Balz
Wilmer Cutler & Pickering
Friedrichstr. 95
10117 Berlin
GERMANY

Stephen J. L. Adamson
Ernst & Young
Becket House
1, Lambeth Palace Road
London SE1 7EU
ENGLAND

UNITED STATES FELLOWS

First Circuit

Daniel C. Cohn, Esquire
Cohn & Kelakos
265 Franklin Street
Boston, Massachusetts 02110
Tele: (617) 951-2505
Fax: (617) 951-0679

William F. McCarthy, Esquire
Ropes & Gray
One International Place
Boston, Massachusetts 02110
Tele: (617) 951-7000
Fax: (617) 951-7050

Jon D. Schneider, Esquire
Goodwin, Procter & Hoar
Exchange Place
Boston,
Massachusetts 02109-2881
Tele: (617) 570-1000
Fax: (617) 523-1231

Second Circuit

Michael L. Cook, Esquire
Skadden, Arps, Slate,
Meagher & Flom
919 3rd Avenue
New York,
New York 10022-9931
Tele: (212) 735-2850
Fax: (212) 735-3744

Marcia Landweber
Goldstein, Esquire
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153
Tele: (212) 310-8214
Fax: (212) 735-4919

Lewis Kruger, Esquire
Stroock & Stroock & Lavan
Seven Hanover Square
New York, New York 10004
Tele: (212) 806-5400
Fax: (212) 806-6006

Harvey R. Miller, Esquire
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153
Tele: (212) 310-8500
Fax: (212) 310-8007

Cecelia G. Morris
Clerk of the
U.S. Bankruptcy Court
Southern District of New York
U.S. Bankruptcy Court
One Bowling Green, Rm. 615-A
New York,
New York 10004-1408
Tele: (212) 668-2891
Fax: (212) 668-2878

Leonard M. Rosen, Esquire
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Tele: (212) 403-1000
Fax: (212) 403-2000

Myer O. (Mike) Sigal, Jr.,
Esquire
Simpson, Thacher & Bartlett
425 Lexington Avenue
New York, New York 10017
Tele: (212) 455-7140
Fax: (212) 455-3989

Third Circuit

Simon Kimmelman, Esquire
Fox, Rothschild,
O'Brien & Frankel
Princeton Pike
Corporate Center
997 Lenox Drive, Building 3
Lawrenceville,
New Jersey 08648-2311
Tele: (609) 896-3600
Fax: (609) 896-1469

Marvin Krasny, Esquire
Wolf, Block, Schorr
& Solis-Cohen
Packard Building, 12th Floor
15th & Chestnut Streets
Philadelphia,
Pennsylvania 19102-2678
Tele: (215) 977-2096
Fax: (215) 977-2334

Stanley E. Levine, Esquire
Campbell & Levine, LLC
1700 Grant Building
Pittsburgh, Pennsylvania 15219
Tele: (412) 261-0310
Fax: (412) 261-5066

Fourth Circuit

Lawrence D. Coppel, Esquire
Gordon, Feinblatt, Rothman,
Hoffberg & Hollander, LLC
223 East Redwood Street
Baltimore, Maryland 21202
Tele: (410) 576-4238
Fax: (410) 576-4246

Bonnie Kay Donahue, Esquire
Womble Carlyle Sandridge
& Rice, PLLC
1600 BB & T Financial Center
200 West Second Street
Winston-Salem,
North Carolina 27102
Tele: (910) 721-3513
Fax: (910) 721-3660

Fifth Circuit

Jan M. Hayden, Esquire
Bronfin & Heller
2500 Poydras Center
650 Poydras Street
New Orleans, Louisiana 70130
Tele: (504) 568-1888
Fax: (504) 522-0940

Neil P. Olack, Esquire
Watkins, Ludlam & Stennis, P.A.
Post Office Box 427
Jackson, Mississippi 39205-0427
Tele: (601) 949-4970
Fax: (601) 949-4804

Philip I. Palmer, Jr., Esquire
Palmer & Palmer, P.C.
Suite 1510, One Main Place
1201 Main Street
Dallas, Texas 75202
Tele: (214) 748-1211
Fax: (214) 748-7920

Kaaran E. Thomas, Esquire
Vinson & Elkins, L.L.P.
2300 First City Tower
1001 Fannin
Houston, Texas 77002-6760
Tele: (713) 758-2681
Fax: (713) 615-5552

Sixth Circuit

Lawrence R. Ahern, III,
Esquire
Bass, Berry, Sims, P.L.C.
2700 First American Center
Nashville,
Tennessee 37238-2700
Tele: (615) 742-6249
Fax: (615) 742-2749

Robert S. Hertzberg, Esquire
Hertz, Schram & Sarcisky, P.C.
1760 S. Telegraph Road,
Ste. 300
Bloomfield Hills, Michigan
48302-0183
Tele: (810) 335-5000
Fax: (810) 355-3346

Professor Jeffrey W. Morris
University of Dayton
School of Law
300 College Park
Dayton, Ohio 45469
Tele: (937) 229-3315
Fax: (937) 229-2469

Louis Rochkind, Esquire
Jaffe, Raitt, Heuer & Weiss
One Woodward Avenue,
Suite 2400
Detroit, Michigan 48226
Tele: (313) 961-8380
Fax: (313) 961-8358

Selection of Eighth Class*continued from page 5***Seventh Circuit**

Neal L. Wolf, Esquire
Schwartz, Cooper, Greenberg
& Kraus, Chtd.
180 North La Salle Street
Chicago, Illinois 60601
Tele: (312) 346-1300
Fax: (312) 782-8416

Eighth Circuit

James L. Baillie, Esquire
Fredrikson & Byron, P.A.
1100 International Centre
900 Second Avenue South
Minneapolis, Minnesota
55402-3397
Tele: (612) 347-7000
Fax: (612) 347-7077

Joel Pelofsky, Esquire
U.S. Trustee
818 Grand Blvd., Suite 200
Kansas City, Missouri 64106
Tele: (816) 426-7959
Fax: (816) 416-7967

Michael R. Stewart, Esquire
Faegre & Benson
2200 Norwest Center
Minneapolis, Minnesota 55402
Tele: (612) 336-3225
Fax: (612) 336-3026

Ninth Circuit

David Gould, Esquire
McDermott, Will & Emery
2049 Century Park East, 34th
Floor
Los Angeles, California 90067
Tele: (310) 277-4110
Fax: (310) 277-4730

Randolph J. (Randy) Haines,
Esquire
Lewis & Roca LLP
40 North Central
Phoenix, Arizona 85004-4429
Tele: (602) 262-5764
Fax: (602) 262-5747

Richard W. Havel, Esquire
Sidley & Austin
555 West 5th Street, 40th Floor
Los Angeles, California
90013-1010
Tele: (213) 896-6017
Fax: (213) 896-6600

Bernard Shapiro, Esquire
Murphy Weir & Butler
2049 Century Park East
21st Floor
Los Angeles, California 90067
Tele: (310) 788-3733
Fax: (310) 788-3777

Tenth Circuit

Glenn W. Merrick, Esquire
Merrick, Calvin, Merker &
Nash, LLC
Suite 950 South,
Dominion Plaza
600 Seventeenth Street
Denver, Colorado 80202
Tele: (303) 405-1000
Fax: (303) 405-1010

Edward J. Nazar, Esquire
Redmond & Nazar, LLP
200 W. Douglas, 9th Fl.
Wichita, Kansas 67202-3089
Tele: (316) 262-8361
Fax: (316) 263-0610

Eleventh Circuit

Charles Edward Campbell,
Esquire
Hicks, Maloof & Campbell
Suite 2200, Marquis II
285 Peachtree Circle Avenue
Atlanta, Georgia 30303-1234
Tele: (404) 588-1100
Fax: (404) 420-7474

Jules S. Cohen, Esquire
Jules S. Cohen, P.A.
810 North Mills Avenue
Orlando, Florida 32803
Tele: (407) 896-4493
Fax: (407) 898-2913

Judicial Nominee

Hon James D. Gregg
U.S. Bankruptcy Court
Western District of Michigan
110 Michigan, N.W.
Grand Rapids, Michigan 49503
Tele: (616) 456-2264
Fax: (616) 456-2919

Hon James F. Queenan, Jr.
U.S. Bankruptcy Court-Mass.
District of Massachusetts
Harold Donohue Federal
Building and Courthouse
595 Main Street
Worcester,
Massachusetts 01608
Tele: (508) 770-8906
Fax: (508) 79300181

President's Report*continued from page 1*

the Cosmos Club, kindly made available by Fellow Murray Drabkin, there will be an educational session which should be of great interest and a brief meeting of the Fellows. Lunch will be served at the Cosmos Club. That evening there will be a reception and dinner at the Metropolitan Club. Following dinner, the popular Capitol Steps will perform. We will do our best to furnish them with some materials so that we will have a very interesting performance.

You need to make your final travel and lodging arrangements. Thanks to Suzanne Bingham you can stay at the Madison Hotel at the reduced rate of \$165.00 per night. I often stay there and find it quite nice. You must make your reservations prior to February 6, 1997, by calling 1-800-424-8577 or 202-862-1740; the reference is Group ACB73A.

You should have received a formal brochure around January 27, 1997; contact Suzanne Bingham if your brochure has not arrived. 🏛️

On-Line Committee*By Ronald M. Martin*

The On-Line Committee is on the road to setting up our very own web site for all College Fellows. We currently anticipate not only having a web page with the most important bankruptcy resource bookmarks available, but additionally having the biographies of each of the Fellows accessible through the web. We anticipate having a "search engine" created so that anyone looking for highly specialized bankruptcy help will be able to access Fellows by state or name.

In addition, the web site will include a bulletin board, which all the Fellows can use regarding problems and questions which arise in our practice, and an ability to communicate with each other through the internet.

We are currently at a stage where we will be developing our web site as soon as we have funding from the College, and we remain optimistic that, by the time of the next All Fellows Meeting March 7-8, 1997, we will have it up and running. If things go well we will have a short instructional session at the meeting so that we will be ready to return home and to cyberspace. 🏛️



Board of Directors Meeting

By Evelyn H. Biery

A meeting of the Board of Directors of the American College of Bankruptcy was conducted on Thursday, October 16, 1996, at the Marriott Hotel, San Diego, California.

In attendance were Gerald Smith, Ray Shapiro, Peggy Sheneman, Merrill Francis, Neal Batson, Dick Gitlin, Ralph Mabey, Roger Whelan, Leon Forman, Hon. William L. Norton, Jr., Evelyn Biery, and Suzanne Bingham.

The minutes of the meeting of July 15, 1996, were unanimously approved as submitted.

There followed a discussion by Gerald Smith of the Induction at the Spring meeting of the College. He announced that the Induction is scheduled for Friday, March 7, 1997, at the Great Hall of the Supreme Court of the United States. Leon Forman then presented a report on the July 1996 meeting of the Education Committee and its plans for the Spring meeting.

There followed a discussion of sponsors for College events. Suzanne

Bingham announced that MB Valuations and College Fellow Les Miles had made a \$3,000 donation to the College. College Treasurer, Peggy Sheneman, reported that the Budget Committee will work on the on-line alternatives, because of the cost of each mailing for the College, which at present is \$2-2,500 per mailing. Peggy Sheneman said that the History Committee has been allocated \$5,000 per year for three years. There are admissions fees to cover some of the expenses of certain events, and the induction ceremony is covered by the induction fees. There are also substantial expenses related to meeting rooms and miscellaneous travel costs. Peggy Sheneman does not recommend increasing dues at this time, and she does not recommend paying dues for only a limited number of years. Of the members, 75 pay \$50 each and 150 pay \$250 each.

There being no further business, the meeting adjourned. 🏛️

COLLEGE COMMITTEE CHAIRS

If you would like to volunteer to serve on any of the Committees of the College, you may contact the committee chairs, who are the following:

Bankruptcy History Committee	John Pearson
Bankruptcy Review Commission Project Steering Committee	Neal Batson and Gerald Smith
Education and Annual Event Committee	Leon Forman
On Line Committee	Ron Martin
Publications Committee	Evelyn Biery

Eighth Class Induction, Educational Program and Dinner

Friday, March 7
U.S. Supreme Court
The Great Hall
Black Tie optional
(Black tie requested for Inductees)

7:00 - 7:45 p.m. Induction
The Great Hall

7:45 - 9:30 p.m. Reception
East and West Conference Rooms

Saturday, March 8
Cosmos Club, Washington, D.C.

7:30 - 9:30 a.m.
Continental breakfast

8:00 - 9:00 a.m.
Committee meetings (*Committees and rooms to be announced*)

9:00 - 1:15 p.m.
Morning panels

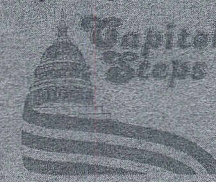
1:15 - 2:30 p.m. Luncheon
and All Fellows Meeting

2:30 - 4:30 p.m.
Afternoon panels

The Metropolitan Club,
Washington, D.C.
Business Suit/cocktail dress

7:00 - 8:00 p.m. Reception

8:00 p.m. Dinner, presentation of Distinguished Service Award and entertainment featuring the Capitol Steps.



HOTEL RESERVATIONS:

The Madison Hotel
Call for reservations:
800-424-8577 or 202-862-1740
Group code: ACB73A
Rates: \$165 plus tax

U.S. Holocaust Memorial Museum Tour
March 8 - 2:30 p.m.
Registrations required/
ticketed event.
(provide own transportation to museum)

In Memory of Professor William T. Laube, Jr.

By Gerald K. Smith



▲ William T. Laube, Jr.

family and our profession.

It is with great sadness that I report to the Fellows of the College that Professor William T. Laube, Jr. died in early January. All those who knew Bill know the magnitude of the loss to his

Bill was not only a remarkably bright, talented and knowledgeable lawyer, he was a role model for all of us. As Leon Forman remarked when I gave him the sad news of Bill's passing, "Bill Laube was the conscience of the National Bankruptcy Conference."

On a personal note, Bill often reminisced with me about his days at the University of Arizona. Bill was a fine

golfer and knew Bob Goldwater, an extraordinary golfer, while he was there. We would exchange stories about Arizona and the Goldwaters.

The legal profession, in particular those of us who practice insolvency law, are much better off as a result of Bill's efforts. We will miss our conscience very much. 🏛️

Publications Committee Report

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know. Also, if you have a recommendation but would like for someone else to conduct the interview, please let me know. We welcome any suggestions for interviews.

- (c) If you would like to submit an article, such as the comments by Mickey Sheinfeld on the historical aspects of bankruptcy that appeared in the March 1996 edition of the College Columns, please let me know. If you prefer, you may simply forward the article to me for submission to the Publications Committee rather than contacting me in advance.
- (d) Wilbur Silberman, as well as Board Chair Gerald Smith and Executive Director, Suzanne Bingham, submitted information for the February 1997 issue of College Columns, and I thank them for their hard work.
- (e) The Publications Committee will hold its next meeting during the Spring meeting of the College in Washington, DC. If anyone would like to join the Publications Committee, please let me know at your convenience. We have a good, strong group, and I know that you will enjoy working with the Committee. 🏛️

All Fellows Meeting

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the UCC and the Bankruptcy Code. At present there is a Drafting Committee of the Permanent Editorial Board and NCCUSL considering very important changes to Article 9, including making it easier to obtain liens on all of the assets of debtors and also including provisions for deposit accounts in Article 9, a major change in the attitude of the Article 9 Committee. There has also been a suggestion that there be a carve out for the benefit of unsecured creditors and a change in the Bankruptcy Code to provide for a carve out. The second segment will be on bankruptcy strategies such as making an appeal moot and making exclusivity a critical factor in the case. The panel includes Harvey Miller, Leonard Rosen and Larry King and will be moderated by Barney Shapiro. There will also be reports on the work of the Bankruptcy Review Commission and a panel presentation that will include judges who have contributed to leading trends, such as mediation. Leon Forman asked that the Fellows make suggestions for the program.

Evelyn Biery reported on the work of the Publications Committee, indicating that the projects include the publication of the College Columns and the compendium of The Best of The Best. Leon Forman reported on the annual Distinguished Service Award, noting that he had forwarded written information to the members approximately two months prior to the All Fellows Meeting, listing the criteria for the award. He reminded everyone that the deadline for submissions is November 15, 1996.

Ron Martin reported that the On-Line Committee had sent out Internet addresses

and bookmarks. The Committee is looking at the possibility of a home page with a list of the Fellows and even pictures and résumés. Ron Martin asked that the members let him know their thoughts on whether they want a password.

Dick Gitlin reported on the Transnational Insolvency Program, a tremendous project headed up by Jay Westbrook and Bruce Leonard. The College has changed its bylaws to include memberships for Fellows from countries other than the United States. He reported that the World Congress of INSOL will meet in the United States in March of 1997, the first time the World Congress has ever been met in the United States. The World Congress will include bankers and other insolvency professionals.

The next program was presented by Mickey Sheinfeld, Don Bernstein and Susan Freeman. The discussion included the rules for court-appointed professionals. The panel considered whether the rules should remain as they are or whether disinterestedness should be abolished, as well as whether the provisions regarding interests adverse to the estate should be expanded or defined. The Restatement of the Law Governing Lawyers was also discussed. Leon Forman noted that there was disagreement on the commentary rather than on the language of the Restatement itself. The panel considered whether the commentary rules should be amended to take into account the special nature of insolvency proceedings. Changes would include distinguishing bankruptcies from ordinary bilateral litigation.

There being no further business, the meeting adjourned. 🏛️