

College Columns

News and Views from The American College of Bankruptcy

Publications Committee Report



▲ Evelyn H. Biery

By Evelyn H.
Biery

The Publications Committee is continuing the projects that were announced in previous issues of the *College Columns*.

- (a) We have added to this issue of the *College Columns* an example of a Judge's humor and creativity. We will in the future add additional examples of Judges' favorite stories. We request that any judge who has a humorous event to relate forward it to me at the address shown below.
- (b) We have also collected stories about lawyers who have a life outside the practice of law. The first such reports will appear in later issues.
- (c) We have also collected several items on the achievements and honors of our Fellows. We need additional information, and I encourage our Fellows to forward information on their achievements and honors to me. The reports will be published in future issues of the *College Columns*.
- (d) We have formed the Memorial Lecture Committee, which will be chaired by Richard Broude. If anyone would like to join that committee, please contact me.
- (e) We have also submitted to the College Fellows reprints of the article that Jerry Smith prepared for

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Chairman's Report



▲ Raymond L. Shapiro

By Raymond L.
Shapiro

We are now up and running as an independent and self-sufficient organization. We have a critical mass of approximately

350 Fellows representing a cross section of our profession and touching international shores as well. The magnificent turnout at our October educational luncheon meeting (over 130 members) and significant participation in our Focus Group Program after the luncheon demonstrate an enthusiastic commitment by our membership to be part of the College activities.

Our financial operations remain in close focus and we have been able to build a cash reserve that permits us to function with efficiency and fiscal responsibility. However, if we are to provide financial assistance to worthy projects that will enhance the bankruptcy process, it will take time to build a financial base that will afford us the opportunity to respond to requests for worthy grants and other financial support.

We are very appreciative of the early response we received on our solicitation for Patrons and Sponsors. Such commitments to our 1998 College programs will help to reduce the cost of our events in March and October and maintain a modest annual dues structure. I urge you to consider having your firm join

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Leon S. Forman

Counsel

William J. Perlstein

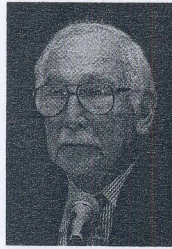
Executive Director:

Suzanne Bingham

American College of Bankruptcy
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Annual Meeting Fall 1997 Report

By Leon S. Forman



▲ Leon S. Forman

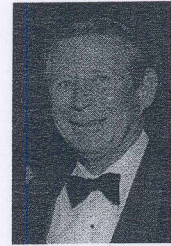
An Educational Program on Appellate Review in Bankruptcy was the highlight of the All Fellows Luncheon held on October 16, 1997, in Philadelphia, immediately preceding the Annual Conference of Bankruptcy Judges. David Sykes of Philadelphia, a member of the Board of the College, acted as moderator and introduced a Panel consisting of the Honorable Conrad Cyr of the First Circuit Court of Appeals, the Honorable Edward Becker of the Third Circuit Court of Appeals and the Honorable Arlin Adams, a retired judge of the latter Circuit. Judge Becker will become Chief Judge of the Third Circuit in February 1998 and has participated in a number of appeals of high profile bankruptcy proceedings. Judge Cyr with a background as a Bankruptcy Judge, as well as a member of the District Court, has written extensively in the bankruptcy field. The Panel expressed their views on various interesting aspects of the Appellate process in bankruptcy, and had as well differing reactions to the proposal of the National Bankruptcy Review Commission for direct appeals from the Bankruptcy Court to the Court of Appeals, thus bypassing the District Court or the Bankruptcy Appellate Panel. Former Judge Adams also spoke of his experiences as the elected trustee in the bankruptcy case of New Era Philanthropy, the largest recent failure of a charitable institution with fraudulent overtones. The program concluded with the Panelists responding to some provocative questions from our able Moderator and from those in attendance. ☞

Save the Date

1998 NCBI/Fall College Meeting
Dallas, Texas
Thursday, October 22, 1998

Distinguished Service Award Selection Committee

By Gerald K. Smith



▲ Gerald K. Smith

As you are aware, the College has established a Distinguished Service Award. It may be awarded annually, but need not be, to a person or entity that has made an outstanding contribution to the National or International Insolvency Community. In accordance with the resolution of the Board of Directors, the Chair has appointed a Selection Committee to review nominees and to make recommendations to the Board of Directors.

I have been requested to chair this year's Selection Committee. Other members include Hon. Conrad Cyr, Prof. Frank Kennedy, Prof. Lawrence P. King and Jay Alix. On behalf of the Selection Committee, I am requesting nominations. Please drop me a note or give me a call with any recommendations prior to January 25, 1998.

Past recipients are Prof. Frank R. Kennedy and Prof. Lawrence P. King.

The award criteria are:

1. Significant accomplishments in improving the administration of justice in the insolvency and bankruptcy field;
2. Distinguished service consistently rendered over a considerable period of time or a single outstanding achievement in a particular year. The fact that a single achievement may have occurred before the year of recognition is not material;
3. The accomplishments arise from voluntary activities rather than for services rendered to a client as a paid professional. This is not intended to exclude members of the judiciary, Congress, or the academic community;
4. It is preferred that the recipient be a member of the American College of Bankruptcy, but it is not mandatory; and
5. The recipient must distinguish himself or herself or its institution in a manner and in matters that are consistent with the goals and purposes of the College. ☞

Pro Bono Committee Report

By David T. Sykes



▲ David T. Sykes

The Pro Bono Committee of the College has not held formal meetings during the past year. Its members have, however, been active on other fronts. I count, among the active members of the Committee, Fellows Glen Ayers, Jim Baillie, George Cauthen, Dick Gitlin, John Kozyak, Leslie Nicholson, Prentice O'Leary, Jerry Smith, Henry Sommer and the undersigned. Each of us has participated in one or more organized bar association pro bono efforts; for example, Jim Baillie is the chair of the newly-organized Pro Bono Subcommittee of the American Bar Association's Business Bankruptcy Committee, and George Cauthen has been the chair of the American Bankruptcy Institute's Pro Bono Committee.

One of the possible tasks of the College's Committee is to determine efforts it could engage in which are different from those worthy endeavors of other bar group pro bono committees.

To date, the Pro Bono Committee has performed an extensive survey of pro bono programs around the country, which was published in an earlier edition of *College Columns*. The Business Bankruptcy Pro Bono Subcommittee is updating that survey.

One of the missions of the College is to support educational efforts in the bankruptcy area. A project which could

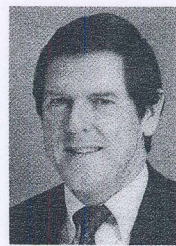
be of great service to pro bono programs is to develop and disseminate standardized practical educational materials. With the help of a significant grant from the National Conference of Bankruptcy Judges Educational Fund, the Consumer Bankruptcy Assistance Project in Philadelphia developed materials which have been utilized in Philadelphia and elsewhere, but the materials need updating. College Pro Bono Committee members might participate in such an update.

The Committee would appreciate hearing from any Fellow who is aware of bankruptcy pro bono efforts in his or her geographic area; this will help Jim Baillie's subcommittee with its survey process.

The Committee would also appreciate hearing from Fellows who are interested in participating in the updating of educational materials. Your time and expertise is needed! ☞

Selection of Ninth Class

By Merrill R. Francis



▲ Merrill R. Francis

In Mid-November of 1997, invitations were extended to forty-six prospective Fellows, including six Foreign Fellows, six Judges, one Emeritus Fellow, and thirty-three who are United States attorneys and other professionals. Formal invitations signed by both Raymond L. Shapiro, Chairman of the Board of Directors, and Merrill R. Francis, Chairman of the Board of Regents, were forwarded to candidates who are United States Judges and professionals. Formal invitations to the candidates for Foreign Fellows were forwarded by John Barrett. A report on the Fellows who accept the invitation will be included in the next issue of the *College Columns*. ☞

SAVE THE DATE

October 22, 1998

NCBJ/College Fall Meeting

The College will hold Its Annual Fall Meeting
In Conjunction with the

National Conference of
Bankruptcy Judges Convention

on Thursday, October 22, 1998
Wyndham Anatole Hotel
Dallas, Texas

Scheduled is a Meeting of the Board of Directors,
Board of Regents and All Fellows Luncheon Meeting



Focus Groups Report

By Myron M. Sheinfeld

To date, seven focus groups have been reconfigured, and Suzanne Bingham, Executive Director of the College, is compiling a comprehensive list of members included in each group. The groups and respective chairs are as follows:

Mass Torts	Ronald M. Martin
Jurisdiction, Procedure and Transnational ...	Gerald F. Munitz
Service and Ethics	Mary Davies Scott
Chapter 11.....	Ralph Mabey
Government	David T. Sykes and Robin Phelan
Small Business, SARE and Partnerships.....	Richard S. Toder
Consumer Bankruptcy	Jennie Deden Behles and Henry J. Sommer

As you know, the Focus Groups met in October 1997 at the College meeting in Philadelphia. At that time, each Focus Group gave a report regarding membership status and accomplishments to date, as well as their intentions in connection with the prospective National Bankruptcy Review Commission Report.

Currently, each Focus Group is working on a report that is to contain a sum-

mary of each Commission proposal that the group considers. I have suggested that each Focus Groups's recommendation be set forth under the summary of each Commission proposal considered, and that the reasons for the recommendation be brief and direct. Each Focus

Group's recommendation will then be sent to the College members for their response.

I am hopeful that by the March 1998 meeting in Washington, D.C., we will have completed all Focus Group reports and recommendations and received all responses by College members. Once that has been accomplished, a final position can be circulated. ☰

Chairman's Report

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our list of 1998 Patrons (\$2,500) or Sponsors (\$1,500) to enable the College to achieve our financial goals.

The Board encourages all Fellows to join Committees and contribute to our activities. We also invite suggestions from our membership, so do not hesitate to drop us a note on any ideas that you may have for the College.

Finally, and on behalf of the College, we salute those Fellows who participated in the work of the National Bankruptcy Review Commission. College members played a leading roll by serving as Commissioners and in vital support staff positions. We applaud their outstanding effort and dedication and hope that many benefits will be realized from their labors.

I look forward to seeing all of you in March, 1998, in Washington, D.C. ☰

Publications Committee Report

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South Carolina Law Review pertaining to conflicts of interest and ethics issues. If anyone has a similar article to submit for distribution, please forward it to me.

My thanks to the Publications Committee members who have assisted in the projects this year. At present the subcommittees include the following:

- (a) College Columns Subcommittee: John Kozyak, Cecelia Morris, Robert Sable and Blaine Schwabe;
- (b) Law Review Articles Subcommittee: Tom Ambro, Don Bernstein, Dan Cohn, Hon. Burton Lifland, Joel Pelofsky, Isaac Scott and Walt Taggart;
- (c) Memorial Lecture Subcommittee: John Barrett, Richard Broude, Jan Hayden, Simon Kimmelman and Michael Reed.

Please contact me if you would like to volunteer for service on a subcommittee. ☰

Induction Ceremony Spring 1998

By Suzanne A. Bingham

The 1998 Induction Ceremony will be held at the Supreme Court on Friday, March 13, 1998. The Inductees will be honored in the Great Hall of the Court with a reception following. This black tie event brings the best and the brightest in the bankruptcy and insolvency field together for a wonderful social event. Last year was the first time the College held this event apart from the American Bankruptcy Institute, and what a successful attendance it was! Three hundred Inductees, Fellows and guests attended — a record breaking attendance. We are looking forward to the same number of attendees for the 1998 ceremony. A reminder: the Supreme Court event will be first come first served due to the fire restriction of 300 people allowed in the Great Hall.

Leon Forman has planned an exciting educational program that will equal the program that was held in 1997 on Saturday, March 14, 1998 at the Cosmos Club. Continuing legal education credits will be available from those states that accept our program. A luncheon is scheduled to follow the program, and the afternoon will be free for sightseeing. The banquet will be held at the Metropolitan Club, a beautiful and historic building. Arrangements have been made for Jim Gossitt, a political comedian, to entertain the Fellows and guests following the banquet.

The Madison Hotel will again be our host hotel. Call now for reservations at 800-424-8577, and ask for Group Code ACB83F.

This is a special event, so look forward to receiving the Induction and Events registration brochure soon. ☰



American College of Bankruptcy 1998 Induction Ceremony and Events

Board of Director's Luncheon Meeting
Friday March 13, 1998, 12:00 - 4:00 p.m.
The Cosmos Club

Induction Ceremony
Friday, March 13, 1998

Location: The Great Hall of the Supreme Court of the United States
One First Street, NE, Washington, DC 20543

Dress: Black Tie (optional except Inductees)

Please note that due to space limitations, only 300 people may attend the induction ceremony. There will be limited parking on Maryland Avenue and East Capitol Street. Please use the Maryland Avenue entrance.

- 5:30 p.m.** Inductees (only) to arrive for photo session.
(Black tie requested)
- 6:30 p.m.** Fellows and guests to arrive.
- 7:00-7:45 p.m.** Induction Ceremony. Great Hall of the Supreme Court. The keynote speaker will be announced at a later date.
- 8:00-9:30 p.m.** Reception. East and West Conference Rooms of the Supreme Court.

College Educational Session & Meeting Saturday, March 14, 1998

Location: The Cosmos Club
2121 Massachusetts Avenue, NW, Washington, D.C.

- 8:00-9:00 a.m.** Continental Breakfast
- Educational Program – Powell Room, The Cosmos Club**
- 9:00-10:15 a.m.** Sovereign Immunity in Bankruptcy After Seminole Decision
Panelists: Professor Kenneth Klee, *UCLA Law School and Stutman, Treister & Glatt*; Karen Cordry, *Counsel, National Association of Attorneys General* and Donald Bernstein, *Davis, Polk & Wardwell*
- 10:15-10:30 a.m.** Coffee Break
- 10:30-11:45 a.m.** Valuation Standards in Bankruptcy
Panelists: Sally Neely, *Sidley & Austin* and Arthur B. Newman, *Blackstone Group*
- 11:45-12:45 p.m.** Hot Topics and Hot Tips
Panelists: Stephen Case, *Davis Polk & Wardwell*; Barbara Houser, *Sheinfeld, Maley & Kay* and Honorable Robert Martin, *Chief Bankruptcy Judge, Madison, Wisconsin*
- 12:45-2:30 p.m.** Lunch and All Fellows Meeting – Members New Dining Room Focus Group Reports and Discussion
- 2:30 p.m.** Afternoon Free/Guided Tour of Holocaust Museum
- Dinner Event**
Saturday, March 14, 1998
- Location:** The Metropolitan Club of the City of Washington
1700 H Street, NW, Washington, DC 20006
- Dress:** Cocktail Dress
Limited to 210 persons for dinner.
- We may not be able to accommodate requests after February 13, 1998
- 7:00-8:00 p.m.** Reception – Metropolitan Club
- 8:00-9:30 p.m.** Dinner – Metropolitan Club and Presentation of the Distinguished Service Award.
- 9:30 p.m.** Performance by Political Comedian Jim Gossett.

American College Of Bankruptcy Board Of Directors Meeting October 16, 1997

A meeting of the Board of Directors of the College was conducted on Thursday, October 16, 1997, in Philadelphia, Pennsylvania.

Those who participated in the meeting included the following: Raymond L. Shapiro, Gerald K. Smith, R. Neal Batson, Myron M. Sheinfeld, Barbara A. Everly, David T. Sykes, Bettina M. Whyte, Evelyn H. Biery, Merrill R. Francis, John A. Barrett, Leonard H. Gilbert, Stuart E. Hertzberg, David A. Lander, Louis W. Levit, Hon. Ralph R. Mabey, Prof. Grant Newton, Jerome Shulkin, Paul M. Singer, Hon. Roger M. Whelan, Joel B. Zweibel, William J. Perlstein, Leon S. Forman, Ronald N. Martin, Joel B. Piassick and Suzanne A. Bingham.

The minutes of the July 2, 1997 meeting of the Board of Directors were approved with one correction.

Suzanne Bingham reported that there are 148 attending the Fall meeting of the College, of whom 137 are scheduled to attend the educational luncheon, including a few speakers, and Melissa Jacoby from the National Bankruptcy Review Commission. Raymond Shapiro reported that the College will probably break even on the educational luncheon, with the \$7,000 in sponsorships received from College Fellows.

Leon Forman reported on the educational program to be presented at the luncheon, in which David Sykes will serve as the moderator and the speakers will be Hon. Edward R. Becker, Circuit Judge for the United States Court of Appeals for the Third Circuit; Hon. Conrad K. Cyr, Circuit Judge for the United States Court of Appeals for the First Circuit; and Hon. Arlin M. Adams, Retired Judge of the United States Court of Appeals for the Third Circuit.

Mickey Sheinfeld reported on the Focus Groups and indicated that the report from the questionnaires submitted to the Fellows was very well received by the National Bankruptcy Review Commission. He intends to ask each of the Focus Group leaders to report on what the Focus Group has done and then to make a determination of who is an active member of each group. Then in March there will be a discussion of whether to continue the Focus Groups. Leon Forman reported that at least one-third of the College Fellows responded to the original questionnaire, and Mickey Sheinfeld indicated that at least 55% of the College Fellows responded to the final questionnaire.

Leon Forman indicated that it appears to him that the most controversial aspect of the work of the Commission will be consumer bankruptcy. A discussion followed concerning the manner in which the College might be able to assist the Commission. On motion duly made and seconded, the Board resolved to add a Focus Group on consumer bankruptcy issues, with co-chairs who might have differing views on the issues.

Merrill Francis reported on the work of the Board of Regents with respect to the nomination and recommendation of new Fellows.

Bettina Whyte reported on the finances of the College. She reported that the induction ceremony produced a loss of \$15,000, even after \$17,000 in sponsorships. As to the Merrill Lynch accounts, she reported that there are possibilities for greater rates of return but the minimum daily balances and the minimum time periods for the deposits may reduce the prospects for achieving a higher rate of return. Leon Forman indicated that 5% under all the circumstances is a fairly good rate of return. Bettina Whyte also indicated that the cash balance of the College should never fall below the cost of operating for one full year. It is anticipated that the amount required will

be in the range of \$150 to 160,000. She also reported that the Fall meeting will break even, but only because of \$7,000 in sponsorships. She presented a proposed budget that anticipates a slightly smaller group of new Fellows.

Suzanne Bingham reported that the current Fellows who are in the reduced dues category of the College probably total 78 Fellows, including 10 Academics, 5 Government Fellows, 1 Foreign Judge, 1 United States Judge and two Other Professionals.

On motion duly made and seconded, the Board approved an increase in the initiation fee from \$750 to \$900, an initiation fee of \$100 for Academic Fellows and Judges, an increase in the annual dues from \$250 to \$300 for Attorney, Fellows and Other Professionals, an increase in the annual dues for Judges and Other Professionals from \$50 to \$65, and annual sponsorships of \$1,500 and \$2,500, with a new budget being submitted at the Spring meeting of the College, taking into account the increases.

On motion duly made and seconded, Ray Shapiro, Neal Batson and Bettina Whyte were authorized to make any necessary adjustments in the operating budget in the interval between the Fall meeting of the College and the Spring meeting of the College.

On motion duly made and seconded, the Board requested that Ray Shapiro as Chair of the College contact those who are delinquent more than for 1997 dues and that Bettina Whyte as Treasurer contact those who are delinquent for only 1997 dues.

Neal Batson addressed the issue of directors' expenses. The board members will be reimbursed for conference calls involving large groups of directors conducting the business of the College.

William Perlstein, counsel for the College, reported that the College is a section 501(c)(6) organization, not a section 501(c)(3) organization, under the Internal Revenue Code. If the College were to engage in lobbying, various reporting requirements would be invoked. He therefore recommended that the College Fellows avoid taking actions that would constitute lobbying activities. Nevertheless, Fellows may testify on pending legislation. William Perlstein agreed to prepare guidelines for the use of any Fellows who may be lobbying Members of Congress. On motion duly made and seconded, the Board authorized William Perlstein to reincorporate the College in Virginia, if there are no burdensome reporting requirements in Virginia, and to review the insurance coverage of the College.

Joel Piassick reported on the progress on a new directory. On motion duly made and seconded, the board authorized him to approach prospective publishers and underwriters and move forward to the publication of a new directory, with the expenditure of the College being limited to the budgeted amount of \$10,000.

Cecilia Morrison, United States Bankruptcy Clerk for the Southern District of New York, reported on the electronic filing system being used in the Southern District of New York. David Sykes suggested that the On-Line Committee present an educational program concerning the electronic filing system at the Spring 1998 meeting of the College.

Leon Forman reported on the proposed educational programs for the March 1998 meeting in Washington, D.C.

Jerry Smith reported on the Distinguished Service Award and indicated that he will submit a letter advising the Fellows of the opportunity to submit nominations for the Award.

There being no further business, the meeting was adjourned.

Law School Educational Program Report

By Roger M. Whelan



▲ Roger M. Whelan

At the annual Spring meeting of the College held in Washington, D.C., on March 7, 1997, the Board of Directors approved a new educational program suggested and formulated by Roger M. Whelan. It is critical to the existence of the College and its long-term goals, that legal education at the law school level become a major objective in promoting the identity of the American College of Bankruptcy and its Fellows. Of equal importance, in effectuating this important goal, is the sponsorship of a specialized bankruptcy course at a recognized law school institution that will introduce students to the importance of bankruptcy law and the functions that bankruptcy plays, not just as a legal mechanism, but also in the economic and social fabric of our nation. To achieve this end the College will sponsor, on an annual rotating basis, a one semester course at a nationally recognized law school to be taught by one of our College professor members.

The first law school course to begin in the Spring semester of 1999 will be taught by Prof. John Ayer at the University of California at Davis and will be entitled "Business Reorganizations in the 1990's and Beyond." In the year 2000, the course will be "Consumer Bankruptcy and the New Millennium," and in the year 2001, the course will deal with toxic torts, products liability and successor liability under the Bankruptcy Code. Each year, a new American College of Bankruptcy professor and law school will be chosen by the Board, as well as a timely subject matter course, and the College will reimburse the designated law school with a stipend not to exceed \$5,000 for the semester.

The Bylaws of the American College of Bankruptcy expressly declare that one of its primary purposes is to "fund and assist projects that enhance the highest quality of bankruptcy practice, including undergraduate and graduate programs related to bankruptcy and insolvency." This first educational program will ensure that the College is aware of and is meeting the challenge of promoting scholastic excellence in this important area of our profession. ☞

Judge's Creativity

By Sanford A. Harris

In denying, *sua sponte*, a motion to dismiss under section 707(b) of the Bankruptcy Code, the Honorable A.J. Cristol (look on page 39 to see how that's done), Chief Judge of the United States Bankruptcy Court for the Southern District of Florida, penned a bit of verse that should be of interest to everyone in the insolvency field.

This cause came on to be heard *sua sponte* upon the court's own motion to dismiss this chapter 7 petition pursuant to 11 U.S.C. Sec. 707(b) and the court having received the inspiration for the motion from a little old ebony bird and not from any party in interest or any other person and having considered the presumption in favor of debtor provided in 11 U.S.C. Sec. 707(b) and not deeming it appropriate to take evidence, the court finds:

Once upon a midnight dreary, while
I pondered weak and weary
Over many quaint and curious files
of chapter seven lore
While I nodded nearly napping, suddenly
there came a tapping
As of someone gently rapping, rapping
at my chamber door,
"Tis some debtor" I muttered, "tapping
at my chamber door—
Only this and nothing more."

Ah distinctly I recall, it was in
the early fall
And the file still was small
The Code provided I could use it
If someone tried to substantially abuse it
No party asked that it be heard.
"*sua sponte*" whispered a small black bird.
The bird himself, my only maven,
strongly
looked to be a raven.

Upon the words the bird had uttered
I gazed at all the files cluttered
"*sua sponte*," I recall, had no meaning;
none at all.

And the cluttered files sprawl, drove
a thought into my brain.
Eagerly I wished the morrow - vainly
I had sought to borrow
From BAFJA, surcease of sorrow -
and an order quick and plain
That this case would not remain
as a source of further pain.
The procedure, it seemed plain.

As the case grew older, I perceived
I must be bolder.
And must *sua sponte* act, to determine
every fact,
If primarily consumer debts, are faced,
Perhaps this case is wrongly placed.
This is a thought that I must face, perhaps
I should dismiss this case.
I moved *sua sponte* to dismiss it
for I knew I would not miss it
The Code said I could, I knew it.
But not exactly how to do it, or perhaps
some day I'd rue it.

I leaped up and struck my gavel.
For the mystery to unravel
Could I? Should I? *Sua sponte*, grant my
motion to dismiss?
While it seemed? the thing to do, suddenly
I thought of this.

Looking, looking toward the future
and to what there was to see
If my motion, it was granted and
an appeal came to be,
Who would be the appellee?
Surely, it would not be me.
Who would file, but pray tell me,
a learned brief for the appellee
The District Judge would not do so
At least this much I do know.
Tell me raven, how to go.

As I with the ruling wrestled
In the statute I saw nestled
A presumption with a flavor
clearly in the debtor's favor.
No evidence had I taken
sua sponte appeared forsaken.
Now my motion caused me terror
A dismissal would be error.

Upon consideration of Sec. 707(b), in
anguish, loud I cried
The court's *sua sponte* motion to dismiss
under Sec. 707(b) is denied. ☞

Executive Director's Report

By Suzanne A. Bingham



▲ Suzanne A. Bingham

The American College of Bankruptcy Fellows continues its participation in the Focus Groups, developing recommendations to improve certain areas of bankruptcy law. The Focus Group chair, Mickey Sheinfeld, is a leader dedicated to scholarly and professional recommendations by the seven individual Focus Groups. The area of immediate interest is in the consumer bankruptcy field. Not exactly the area of bankruptcy law most College members practice, but a hot topic before the National Bankruptcy Review Commission and Congress. The College Consumer Bankruptcy Focus Group, chaired by Jennie Deden-Behles, has enjoyed a new growth of members and will be preparing suggested position papers and recommendations for the College's review.

For those Fellows who did not attend the October 16, 1997 educational luncheon panel, in conjunction with the NCBJ Annual Meeting, you missed a very interesting and information discussion. The impressive panelists provided an enlightening discussion of issues of the day. The program was entitled "Appellate Review in Bankruptcy." Thanks again to Leon Forman for his outstanding efforts in coordinating the panelists.

The College administrative duties are running smoothly as we are preparing for the 1998 Class Nine Induction Ceremony on March 13-14, 1998, in Washington, D.C. Another informative educational program will be hosted at the Cosmos Club, and the banquet will again be held at the Metropolitan Club. Following the banquet, arrangements have been made for a political comedian to entertain the Fellows and guests.

Acknowledgments to College Patrons & Sponsors

American College of Bankruptcy Patrons, 1998

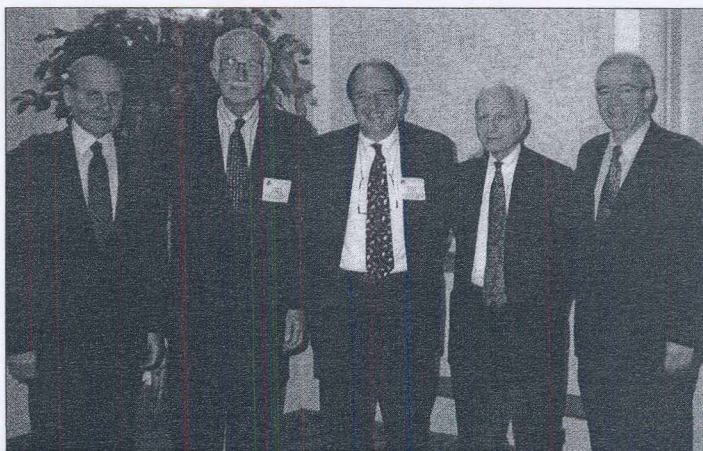
Jay Alix & Associates
Jay Alix
Bettina M. Whyte
Blank Rome Comisky & McCauley LLP
Leon S. Forman
Raymond L. Shapiro
Fulbright & Jaworski L.L.P.
John A. Barrett
Evelyn H. Biery
Goodwin, Procter & Hoar LLP
Daniel M. Glösbend
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▲ Left to right Hon. Arlen M. Adams, Leon S. Forman, David T. Sykes, Hon. Edward R. Becker, Hon. Conrad K. Cyr, panelists at the Fall Educational Session/NCBJ Annual Meeting.

In Memory Of Professor Barry Zaretsky

By Evelyn H. Biery



▲ Barry Zaretsky

The College is saddened by the death of College Fellow Barry Lewis Zaretsky, 47, a professor at Brooklyn Law School and a scholar in the field of bankruptcy and commercial law, who died July 28 in an explosion that destroyed his vacation home in Canaan, N.Y. Barry died instantly in the explosion, which was caused by a propane gas tank leak that leveled his vacation home.

Well known as an author and as a professor, Barry was also well loved by all those who knew him. College Fellow Professor Elizabeth Warren, who has known Zaretsky "forever," fondly

remembers him as a genuinely good man who cared deeply about people, about legal issues and about the truth. One of his most endearing qualities was his empathy for his fellow human beings, and he was especially admired for the love he showed for his family.

As an examiner in the Revco case, he found that the drugstore company could bring a fraudulent conveyance action against lenders, professionals and others involved in the \$1.25 billion leveraged buyout of Revco.

He also served as a director of the American Bankruptcy Institute and of the American Bankruptcy Board of Certification. An honors graduate of New York University and the University of Michigan Law School, Barry served

as counsel to Arnold & Porter. A member of the Board of Editors of *Collier on Bankruptcy*, he also co-authored the *Commercial Law and Practice Guide* and the *Commercial Law Report*. Last Year, he was named the Southeastern Bankruptcy Law Institute Visiting Professor at Georgia State University.

From 1985 until his death Barry wrote a regular column on bankruptcy law for the *New York Law Journal*, and he was the author of several legal treatises and casebooks on bankruptcy issues.

He was a member of the first class of the College, and he also served on the New York State Law Revision Commission. He is survived by his wife, Joan Glatman, and three children, Ariel, Joseph and Tamar. ☞

Educational Program Spring 1998

By Leon S. Forman



▲ Leon S. Forman

Chairman of the College, Raymond Shapiro, announced the schedule for the 1998 Induction Ceremony and Annual Meeting events recently in Philadelphia. The Board will hold its Annual Meeting in Washington, D.C., on Friday, March 13, 1998, beginning with lunch. The Induction Ceremony will commence at 7:00 P.M. in the Great Hall of the Supreme Court, followed by a reception at 8:00 P.M.

The Educational Session will be held at the Cosmos Club beginning at 9:00 A.M. on Saturday, March 14, 1998 preceded by a continental breakfast. The Program will be followed by an All Fellows luncheon at 12:45 P.M., also at the Cosmos Club. Tours will be available beginning at 2:30 P.M., including, for those interested in a visit to the Holocaust Museum. That evening, the Annual Dinner will take place at the Metropolitan Club at 8:00 P.M., preceded by a Reception commencing at 7:00 P.M. Entertainment will be provided at the conclusion of the Dinner.

The Educational Program on Saturday morning will consist of three outstanding Panels. Commencing at 9:00 A.M., Panelists Professor Kenneth Klee, UCLA Law School and Stutman, Triester & Glatt, Karen Cordry, counsel for the National Association of Attorneys General and Donald Bernstein of Davis, Polk and Wardwell, will discuss Sovereign Immunity in Bankruptcy After the *Seminole* Decision. The Second Session will cover Valuation Standards in Bankruptcy and the participants will be Sally Neely of Sidley & Austin and Arthur B. Newman of the Blackstone Group. The final Panel will present Hot Topics, as they appear to be emerging from recent decisions in the bankruptcy field, and the Panelists will include: Stephen Case of Davis Polk & Wardwell, Barbara Houser of Sheinfeld, Maley & Kay and the Honorable Robert Martin, distinguished Bankruptcy Judge, Wilmington, Delaware.

The speaker for the Induction Ceremony on Friday night has not yet been announced. ☞

Nominations for 1999

By Merrill R. Francis

In April of 1998, Merrill R. Francis will write to each Fellow requesting that nominations, together with biographical information and other supporting data, be forwarded to each Circuit Admissions Council by May 30, 1998. Fellows are reminded that the nominations should be complete and that substantial due diligence is required in order to support a nomination; incomplete and unsubstantiated nominations are less likely to receive favorable consideration. Nominations for Judges should be forwarded to Leonard E. Gilbert, and nominations for Foreign Fellows should be forwarded to John A. Barrett. 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 (other than Judges and Foreign Fellows) in that Circuit and be asked to comment on each proposed Fellow. Final Circuit Admissions Council recommendations will be forwarded to the Board of Regents, who will meet in October of 1998 in conjunction with the meeting of the National Conference of Bankruptcy Judges, and invitations will be forwarded to candidates in mid-November of 1998. ☞